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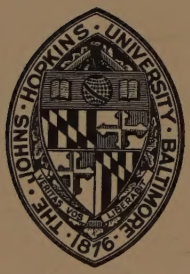

1876–1926

THE PRIVY COUNCIL OF ENGLAND

1603–1784

I

THE PRIVY COUNCIL OF ENGLAND

IN THE

SEVENTEENTH AND EIGHTEENTH CENTURIES

1603–1784

By

EDWARD RAYMOND TURNER, PH. D.

Professor of European History in
the Johns Hopkins University

VOLUME I

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TO

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MCMXXVII

PREFACE

SIXTEEN years ago the author undertook to write from the sources an account of cabinet government in the period of Walpole. Study for this purpose and especially research carried on in England had result in a series of articles, tentative to some extent, in *The English Historical Review* and *The American Historical Review.*

Progress of investigation made the author increasingly aware how proper would be an extension of his undertaking. The origin of the cabinet, which was ill understood, went far back before the beginning of Hanoverian times, and had been noted by contemporaries while the privy council was still in its prime. Since cabinet had come from privy council it presently seemed well not only to trace the history of the cabinet through the seventeenth century—when it arose—and through the eighteenth—when it assumed its later position—but to recount the development and the decline of the privy council also during those years. Since the cabinet was found to be in origin the committee of the council for foreign affairs, it seemed necessary also to include a detailed explanation of the committee system of the council, especially because unravelling the intricacies that pertained to "lords of the committee" and committee of the whole council must precede exact understanding of the cabinet itself. Finally, inasmuch as cabinet had been closely connected with lords justices, small groups of ministers, and private meetings, it was more and more evident that comprehension of the cabinet required greater knowledge of relations with the king and of the position of the king. So, the author intends to deal at length with council, committees, cabinet, ministers, and king from 1603 to 1784.

Of this study the two volumes of the first part are now appearing. The second part, "The Cabinet Council in the Seventeenth and Eighteenth Centuries," also in two volumes, is completely written and awaits a publisher—difficult to find for a large work of this sort. The concluding part, "King, Ministers, and Parliament in the Seventeenth and Eighteenth Centuries," is partly written and is designed for publication in the future.

The long period that will have elapsed between the beginning and the completion of this task is explained partly by the widening magnitude of what has been tried and partly by the difficulty of the research. The greater part of all the investigation has been in manuscripts and contemporary printed works that had to be examined in England, when the author was able to go there. The nature of the problem dealt with, involving collection and collation of myriads of data and allusions, required prolonged and complete examination of vast collections of miscellaneous papers, from which often very little was obtained in the end.

The author has tried to make the work complete. In a sense that cannot, perhaps, be achieved in any one lifetime. It is of the nature of such a task that important and pertinent items may at any time be discovered in some manuscript newly revealed, while an infinitude of known but unrelated sources may or may not yield something. He can, then, expect no more than that patient and thorough research in the vast body of materials that certainly relate to the matter and wide search in other miscellaneous and unrelated sources have established all the main parts of his subject, so that this work may be thought a definitive contribution, even though later it should have to be modified in details by others.

Two closely connected subjects have been dealt with slightly. The author has tried to describe the English

executive in the seventeenth and eighteenth centuries. Of the subsidiary organs of the central government, however, the boards and departments which developed during that time and through which, under king, privy council, cabinet, and parliament, the government was so largely administered, he has neither attempted any full account nor written of them save in their connection with councils and king. Perhaps they had best be treated in a series of monographic studies. If the author were to write the history of admiralty, treasury, and the others on the same scale that he has employed, the execution would require, perhaps, another twenty years. He has been more tempted to give adequate attention to the council in the sixteenth century—a study that has never been made, but for that another year would be needed in London, the work still more largely extended, and publication still further postponed. It may be that in the future he will deal fully with the Tudor Star Chamber and council, though increasing preoccupation with modern European questions make that uncertain.

The author has taken whatever assistance he could get from the writings of others, but mostly he has gone his way alone. The idea of the study came to him from some words of Professor Charles M. Andrews, then of the Johns Hopkins University, whose lectures on English constitutional history were a high inspiration to him. Professor James F. Baldwin read the manuscript of the three first chapters: his unrivalled knowledge of the medieval council made possible avoidance of certain errors in the introduction. In this, as in other literary work, the author had the affectionate assistance of his wife.

As the author brings his task to an end memories rise before him again: unnumbered hours of patient, happy drudgery in state papers and correspondence, in the pages of old books and of newspapers seldom opened; the

monastic stalls of the Bodleian Library; the Round Room in the British Museum, with light and with sound subdued, the shadows shifting; days in dear England before the war and days since; the squares of Bloomsbury; the bookshops; the winding streets down to Lincoln's Inn; chop houses, restaurants, places for tea; the jostling law clerks; the surging tides of people and traffic that forever go by the Strand; the curve of Chancery Lane; Hodgsons' with its auctions of fine old books; walks to Oxford Street, across Hyde Park, down the gardens, on to the peace of Kensington's streets.

When the author thinks of the Record Office, which he frequented for many months, always there comes to him thought of his friend, Mr. Hilary Jenkinson, who, often pausing from mastery of records and medieval writing, gives unfailing courtesy and certain assistance to so many authors and students.

EDWARD RAYMOND TURNER.

Baltimore,
February 1927.

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CHAPTER I

INTRODUCTION

THE English cabinet came from the privy council. It appeared in the seventeenth century, when the privy council was beginning to decline. During a long time the cabinet developed from the older body, within it, under its shadow, separating itself slowly and in part, often disappearing within the council or in some of its phases re-establishing close connection with the parent body, sometimes seeming to be part of it, sometimes appearing of uncertain origin and connections, until at last after steady, unobtrusive growth it became well known. It was not formally recognized, however, even though it had become the greatest organ in the government of England. During the seventeenth century, in the hands of the king, it largely superseded the privy council. In the eighteenth century it absorbed power of the king and assumed the guidance of parliament, after which, in further process of time, that arrangement was worked out by which cabinet came to control parliament and yet be entirely dependent upon it—the system in which legislative and executive are merged in one organism effective and responsive to those from whom power is derived.

As time went on and as men looked farther back at the history of the cabinet so indispensable in the working of the state and now taken as a matter of course, the origin seemed more and more obscure, and the development in most of its details had been forgotten. Like so many other things in English political life the cabinet had not been deliberately instituted or definitely founded. It had arisen almost without design in the custom and practice of

administrative life as the administration developed. Therefore its beginning was not stated in public documents, its existence was not formally recognized in law; often its name conveyed opprobrium, its members were attacked for holding unconstitutional and unlawful position. And if the origin of the cabinet was obscure, so were its nature and character difficult to determine: some considered it a committee or part of the privy council; some thought of it as a body independent that had been evolved in connection with the parent organism, alongside it or in some manner from within. Early in the eighteenth century cryptic statement was well made by Roger North: "And as offices of the law, out of clerkships, spawn other offices, so this council was derived from the Privy Council which, originally, was the same thing." [1]

The beginning, then, of the task of him who writes about the origin and history of the cabinet is a study of the privy council at the time when the cabinet began. At the start, if he goes farther back, following the masters of the history of medieval institutions in England, he finds, in the evolution and metamorphosis of the *curia regis* of olden days and the king's council which afterwards appeared less dimly, much that in character and development is like what pertains to the privy council and its offshoots in the time of the Tudors and those who came after.[2]

[1] *Lives of the Norths* (ed. Augustus Jessopp, London, 1890), i. 299.

[2] In what remains of this chapter, which is based almost entirely on the work of others, I need not confess obligations to Palgrave, Stubbs, Maitland, Tout, and Adams, to whom students would have recourse, but I do wish particularly to pay tribute to Professor J. F. Baldwin, who has made the subject of the medieval council in England so peculiarly his own, and whose exhaustive work, *The King's Council in England during the Middle Ages* (Oxford, 1911), seems to me one of the most important and thorough pieces of work that has proceeded from historical scholarship in the United States.

It is well known now that in Norman times the central government of England was administered by the king with the assistance of a *consilium* (*concilium*) or *curia regis*, which had its origin in the general and unspecialized court of the feudal sovereign. It was essentially a gathering of the king's vassals, including the officers of his household. It is well known, also that from the first this council is seen in two aspects: a large body assembled on fixed occasions by summons from the king, and a smaller one meeting at frequent intervals or throughout some time. Between the two there was no positive division in respect of personnel and no definite division of labor. There was no differentiation, no specialization, for the reason that what was functioning was one body—the same *consilium* whether large or small. It was the royal council whether a court or justice or a general assembly, and this council exercised executive, legislative, judicial functions in turn without any clear discrimination respecting those who did the work.

It need not be said that this *curia* was ill-defined: perhaps its outlines and its structure were not clearly conceived or delineated even by the men who saw it and took part in its work; or, more probably, they troubled themselves little with any attempts at definition. It was the ancestor of the exchequer, of common pleas, of king's bench, of privy council, and of parliament, nay it was for a great while each one of these things. Afterwards, in spite of the divisions and subdivisions that were gradually but inevitably made good, the idea of one single institution lived on, and the various courts or members of parts were slow to separate themselves completely. They easily coalesced again, or in partial separation maintained practical connection with the parent stem, and the various divisions were wont to interchange certain names, *curia*,

consilium, parliamentum, which had been the names of each one of them or else of the one institution in which they began.

The history of the development of this organism is complicated and difficult to relate. There was constantly and naturally at work a tendency towards differentiation and ensuing division, in the course of which exchequer and common-law courts were gradually separated from the body in which they arose, while king's council and parliament slowly became distinct from each other. But this is difficult to describe exactly since the process becomes clear only through examining an infinitude of details, while it is obscured by persisting tendency which causes the divisions that are taking place to be incomplete and often to cease, and the parts that are dividing to coalesce again. Furthermore, to a great extent the process long remains a differentiation in respect of function rather than of personnel, so that one sees not two bodies forming apart one from the other, but different aspects of the same body, or the same body doing now one thing and then another.

The student contemplates a lengthy, indefinite, complex process, and sees, dimly it may be, that in course of time, exchequer and courts of law drop away from the old *consilium,* with separation of council in parliament from the permanent and ordinary council of the king; and he sees that after a while from the king's permanent council comes the secret or privy council of the king.

Down to the end of the twelfth century, whatever names were employed, there was but one body, the *curia* or *consilium,* a body sometimes large and sometimes small. During that period the terms *curia* and *consilium* or *concilium* were used synonymously or indiscriminately, but in course of time a difference established itself: *consilium* came to denote the consultative aspect,

from which developed the house of lords and the secret council of the king; *curia regis* was rather the judicial aspect from which came exchequer and courts of law.

The first tendency toward separation was in connection with the exchequer. The beginning can be discerned far back, but not for a great while was differentiation fully accomplished. Under Henry II the *curia* at the exchequer was a court of general assemblage including not only the king's officers but a varying number of the barons of the king. How largely it might be expanded in membership and function is evident in that great councils were apt to be held in the Michaelmas sessions at the exchequer. The *curia* at the exchequer was differentiated from the *curia* only in so far that certain of the king's officers were barons of the exchequer, having special duties in respect of the management of the revenue of the king. Actually in personnel the *curia* at the exchequer did not differ from the *curia regis*: it was *curia regis ad scaccarium*, and was even then in fact a council not exclusively occupied with matters financial. All this cannot be better expressed than in the old way, that the *curia* at the exchequer was the financial aspect, the *curia regis* the judicial aspect of one and the same thing.

The differentiation slowly proceeding followed, it would seem, not as the result of deliberate division of membership or function but to some extent from diverse modes of procedure. Except with respect to business dealt with there was little difference between *curia regis* and *curia* at the exchequer so long as the latter was a general court attended by the council, consultations being held at the exchequer, the other members of the council acting as a body of reinforcement for those members who were barons of the exchequer. But in course of time the exchequer came to be more separated from the council and appeared as a financial bureau with closely restricted

powers. Yet the separation of exchequer from *curia* was by no means complete, for the exchequer was still a judicial body; it remained during a considerable period afterward outside the domain of the common law, and so not subject to the limitations of the common-law courts; and in this judicial field it was still to be identified with, and it still was, the council of the king or *curia regis.*

Meanwhile the common-law courts had begun to differentiate more distinctly and after a time to separate from the *curia.* The king was the fountain and head of justice in his kingdom, and one of the principal tasks of his *consilium* or *curia* was to assist him in dispensing of justice. Henry I and Henry II employed the itinerant justices—their judges going around through the kingdom to bring the facilities of the *curia regis* to all parts of the country. Originally there was in this nothing of a division of the *curia* into parts. But in 1170 the justices going out on *itinera* were given a form according to which they were to act; and articles of instruction were given to them thereafter. That is, they were to act not with the unlimited competence of the *curia* but in accordance with certain rules of procedure laid down. In course of time, with the development of the system of writs, the justices had to take a particular kind of action in respect of a particular kind of case, carrying out their work in accordance with a formulary system. The unequal adoption of these forms by the different branches of *curia regis,* working upon matters to be dealt with, proved a great factor in bringing about differentiation and more actual separation of judicial bodies from the original *consilium.* In 1178 Henry II appointed five justices to remain permanently at the *curia regis* to hear complaints, thus effecting some centralization of the itinerancy and localization of prescribed routine. This "bench residing at Westminster" or court of common pleas was a tri-

bunal of formulary procedure and inferior jurisdiction. During the thirteenth century the court of common pleas at Westminster came to be clearly marked off from the *curia regis*.

In the time of John justices and other members of the *curia* who followed the king on his journeys about the land appear as the court *coram rege*. For a while these two bodies readily coalesce, and are seen to form a *curia* actually undivided. Just as in the seventeenth and eighteenth centuries cabinet and "committee of council" seem to be one and the same body yet none the less frequently appear as different, so for a while *curia* or *consilium* and *coram rege* or king's bench are not distinct from each other but remain different aspects of one and the same thing. Again it was difference in procedure that marked increasing separation. Early in John's reign the *curia regis* in its *coram rege* capacity tended to hear cases in accordance with formulaic procedure, until by the time of Edward I a writer defined king's bench as a court of common law, which the *consilium* was not. But the separation was gradual and indistinct and for a long while not complete. Formulaic procedure was employed only in certain classes of actions before king's bench; upon the rolls there was a mingling of conciliar cases and cases *coram rege* without apparent distinction as to character and procedure—much as the records of Marlborough's time leave the student often uncertain whether he is contemplating a memorial of cabinet or "committee", and the recurrence of pleas *coram rege et consilio suo* continued in this manner until about to the time of Edward III.

In the thirteenth century there were at least three important bodies as yet only partially defined: king's bench, exchequer, and *consilium*. They were not entirely separated; they easily merged into each other; their outlines were not always clear; they were not so much separate

bodies as parts of one, and often seemed less portions of one than aspects of one and the same indefinite organization, the old *curia regis* or *consilium* of the king. The exchequer was not then a common-law court, hence it was a most convenient organ for dealing with cases for which no remedy was provided by the common law. Because it continued the older and freer procedure of the *curia regis* it might hear parties who came to make their complaint without any writ. This jurisdiction was not unchallenged: the great power of the exchequer was attacked by parliament, and a rival arose in another body of officials, the chancery, which emerged from the king's household. After the Ordinances of the Lords Ordainers chancery gained the ascendant in respect of much of the judicial work which the exchequer had been doing. The result was that the exchequer was presently left more detached from the council and with powers still more restricted.

While the common-law courts and the exchequer were appearing first dimly as aspects of the one *consilium*, then developing with more distinctness and towards a partial separation, and finally separating very largely from the body within which they had arisen, there was the while proceeding a differentiation more and more striking within the council, between *consilium* and *parliamentum*. *Consilium*, the older word, and *parliamentum*, a word which came into use in the thirteenth century, were at first two terms for one and the same idea, two appellations of the one council. Sometimes the *consilium* was large; more often it was small. Between the two forms of the *consilium*, however, no real line of distinction could for a long time be drawn. There was but one body: the smaller was not a committee or part of the larger; it was the larger, when on occasion members not usually in attendance were summoned and were present. Yet

again there was a tendency towards differentiation, which if not evident at first was destined to be very clear later on: the larger body got names of its own—*magnum consilium, parliamentum, consilium in parliamento,* the smaller body was not so called, and had no particular designation as yet.

The *consilium* or *curia* consisted of magnates sometimes specially called and of officials attached to the more permanent service of the king. Some of the members were great lords; some were the *curiales*—barons of the exchequer, justices, and others. Between the great men and the lesser there were often jealousy and conflict. By the time of Edward III the importance and independence of the professional men in parliament had declined, and the prelates and lords had absorbed their power, and there was by this time a council in parliament, the lords spiritual and temporal—in Tudor times called the house of lords, frequently opposed to and often in contest with the council outside of parliament. In the time of Henry III there had been one council, enlarged or contracted, as desired. There was not then much difference in the character of the work done in the smaller from that done in the larger body, and it has been noted that statutes were little more than judicial interpretations in legislative form. But the *curiales* were generally opposed by the magnates, whose triumph is seen clearly in the statute of 1322, when it was declared that henceforth great matters should be treated and established in parliament by the assent of the prelates, earls, barons and commonalty of the realm. The justices and professional members of the council were not mentioned.

In the period of the minority of Henry III the formation of a king's council of permanent outline and character is first seen. Yet apparently at this time no new institution was conceived. To a considerable extent the council continued to be a body of indefinite structure and

dimensions, sometimes small and sometimes large. But a tendency towards greater definiteness and more exact obligation appears when presently councillors were sworn as members. Moreover, at this time the strife between barons and king brought about the appointment of a select number of councillors responsible for the government of the realm; and in the events of 1258 and 1264 there is almost the recognition of a group of councillors for the king distinct from the *curia regis* and exchequer.

The swearing of councillors, which began under Henry III, became with Edward I a regular practice, and accordingly, to a certain extent, a permanent and definite king's council slowly developed. In the time of Edward I the terms *secretum consilium* and *privatum consilium* appear in the records to designate the smaller body working under the king. The nucleus of this council consisted not of nobles, for the experience of the past showed that they were little to be relied on for regular service, but of officers of the king's court and household, justices of the courts and barons of the exchequer with status somewhat doubtful, officers retired after long service for the king, some foreigners and others, and also certain magnates.

The council of the Edwards was a large and heterogeneous body, containing several score of men—officers, prelates, barons, knights, clerks, honorary members, foreigners, and favorites. It was not an effective working body: often the services of individual members were of more importance than the collective service of them all together. The nobles were still a varying and shifting element. From them the oath might not be exacted without their personal consent. The permanent or private council was not yet controlled by its sworn members only. The oath was not yet intended to form an exclusive body, but was administered with the intent of imposing obligation of service.

The most important consideration for understanding the structure and development of the council during the middle ages as well as for comprehension of kindred problems long afterward is recognition that there was only one council. In the eighteenth century cabinet, lords of the committee, lords justices, effective part of the privy council, were all of them one and the same under different guise, with different names, put upon different tasks for the time being. In the thirteenth and fourteenth centuries *privatum consilium, secretum consilium, magnum consilium,* were all of them the *consilium regis,* the king's council of the middle ages. And in the course of medieval times the only distinction which arose in respect of the king's councils was that which gradually developed between parliament and the private council of the king.

The differentiation that went forward may be seen in the differences and antagonisms which developed between the two principal groups of members who made up this ill-defined body. For some hundreds of years there was rivalry between the larger assembly of counsellors, which gradually became the house of lords and controlled parliament, and the smaller one, which became a council closely attached to the king. This rivalry is important in the political history of England as well as in the record of constitutional changes. The house of lords defended the common law and kept its procedure in sympathy with it; the jurisdiction of the council was outside of and even antagonistic to the common law. In the time of Richard II and the period following parliament attempted to control the council and limit its authority, but the discretionary power of the council was not greatly affected, and under the Lancastrians the principle was accepted that the council might exercise a large jurisdiction outside the common law. This conflict was sometimes a major cause of rebellions against the king and of civil wars. It affected

profoundly the character and position of the king's council in the later middle ages. In the time of Edward II was seen the fundamental antagonism between the hereditary councillors—the noblemen—and the *curiales*—household officers, clerks, and men of the king's immediate court. Under Edward III also the magnates contended against the humbler men upon whom the king placed reliance, but it was very difficult to realize the idea of a permanent council of great men, for the lords while anxious to control were generally reluctant to serve or remain with the king and give regular attendance. Under Richard II the magnates in parliament tried hard to secure about the king a permanent council of limited membership and definite responsibility, in which men of rank would serve with regularity. Generally this policy was a failure. On the other hand the king strove persistently to create a royal council which would have official and bureaucratic character. In this attempt also only partial success was achieved. There was generally an irrepressible antagonism between the old nobility and the "favorites." The result was that the council was made to contain both elements, between which as yet no equilibrium was reached.

The Lancastrian period was for the permanent council a time of supreme importance and power. Under Henry IV it contained lords, who attended irregularly, and lesser men retained with salaries. Soon opposition arose to the king, and complaints were made about the weakness of the council. In 1404 the king publicly announced "his great and continual council." The list was made at the instance of parliament. It contained the names of twenty-two councillors. Two years later a list of seventeen was announced, and most of the members were sworn in parliament before the king. Liberal salaries were paid to the members, and they acted vigorously and with success.

In the reign of Henry V the plan of deferring to the wishes of parliament continued to be carried out. The

king's council was small, consisting of great officers, prelates, and lords, who were the king's personal confidants. Usually in this reign they received no salary, reliance being put upon their loyalty and willingness to serve. On many occasions the result was what it often was in later periods—business was carried on by a few, the chancellor, the treasurer, and the keeper of the privy seal, with sometimes the chamberlain, the steward of the household, the keeper of the wardrobe, and the king's secretary. That is to say, meetings of the king's council were commonly gatherings of the king's officers with little other support. The functions of the council were mainly administrative and judicial.

Henry VI began with a council of twenty-one, most of whom had served under his father. They were appointed in parliament. Afterwards new members were chosen and sworn within the council itself. The members were paid salaries; they were to have considerable powers and great responsibilities. Presently began struggles for control between factions of the council. After a while the king was impotent. Then the old evils of society, which had been increasing for a hundred years, got beyond the control of the central government. The power of the council declined and disintegration began. Membership was enlarged, but the members failed to attend. They became powerless in judicature and administration, and by the middle of the century could no longer govern the country.

Towards the end of the middle ages there was a king's private or secret council with large and diverse powers, but more limited in size, power, and scope than the old *curia* or *consilium* from which it had descended, since from this prototype in course of time had separated almost completely other bodies—house of lords, chancery, courts, and exchequer, which once had been merged together

along with the advisers and administrative officers of the king in the more complex and indefinite body of the earlier times. The council or privy council appeared after the Wars of the Roses, in the time of Edward IV and Richard III, with power much reduced, composed of lords, knights, and minor men of the court. Soon there was a reversion to a body of officials. The great lords stayed away, and the authority of the king was paramount. During this time the judicial activities of the council were much reduced, though towards the end of the Yorkist period there were some signs of a revival of power.

Under Henry VII the council was rehabilitated and employed with greater vigor than ever. In earlier times the king had often been absent from meetings. Now he was frequently present at the sessions. Under his eye and with his encouragement the council worked with energy and with success. In 1487, after certain preliminary steps had been taken, a statute which apparently was not until later times known as the Statute "*pro camera stellata*," defined and gave parliamentary sanction to some of the long existing judicial jurisdiction of the council. Actually what was done was to set aside sessions of the council for judicial purposes, something that had been attempted before but had not been effectively carried out. The jurisdiction, also, of the chancery and the council were now more definitely divided. It has been said that in the operation of this council or court of Star Chamber there was nothing new but its vigor and purpose. The king's council had since the fourteenth century met, among other places, in the Star Chamber next to the receipt of the exchequer. Under Henry VII was instituted also the court of requests, actually a standing committee of the council composed of professional members meeting under the keeper of the privy seal, and carrying on work essentially like that done in Star Chamber.

CHAPTER II

THE COUNCIL UNDER THE TUDORS

A GREAT deal of obscurity still pertains to much that concerns the king's council in England in the fifteenth and sixteenth centuries. Primarily this is from absence, for the most part, of essential records—such as the later register of the privy council—upon which to base definite conclusions about membership, structure, organization, and functions of the body, and its identity or its relations with other bodies whose names so frequently occur. Therefore, just as in the case of the cabinet of the seventeenth and eighteenth centuries, a great deal has to be drawn from scattered details and miscellaneous allusions, by exhaustive research in a variety and large number of sources.

The history of the council in the later fifteenth century and in the century succeeding has not yet been the object of any definitive study. Baldwin purposed to describe the medieval council, and his wider research goes no further than the end of the Middle Ages. The works of Leadam and of Scofield are excellent and remain the basis of much of the best since accomplished, but when their writing was done the significance of some of the problems involved in the question was apparently not realized in full, so that much remains wanting. The most important work so far achieved on the subject is a series of articles by Pollard.[1]

[1] A. F. Pollard, "Council, Star Chamber, and Privy Council under the Tudors"—"I. The Council"; "II. The Star Chamber"; "III. The Privy Council": *English Historical Review*, xxxvii. 337-60 (July 1922), 516-39 (October 1922); xxxviii. 42-60 (January 1923).

To a considerable extent they are a synthesis of the work of Baldwin, Scofield, and Leadam, with some valuable additions and contributions, especially in respect of detail, and they are very suggestive, throwing into bold relief the problems that are to be solved. The author seems, however, to have had little opportunity for exhaustive research in the manuscripts, which would be all-important for such a study. Some of his theses can be taken as no more than hypotheses, of which the truth is possible, in some cases probable, but, which have yet to be proved. Exhaustive research for the author's own volume—to which all that is said in the first three chapters is no more than introduction—is for the period after the beginning of the seventeenth century. Accordingly, what the author presents in this chapter and in the next is no more than a tentative statement. It is much to be desired that some one should establish conclusions with respect to council, star chamber, and privy council in the Tudor period, as a result of the complete research in the sources which alone will permit such conclusions to be made.

In comparison with following times, little is known about the council prior to the later years of Henry VIII, and there is much obscurity for a generation after. It is well known that the medieval records of the council, while full of interesting and important information, are scanty and insufficient, seldom giving much idea of the structure or personnel of the council. It is well known also that with the year 1454 most of these records lapse, or at least are wanting now, and that they are not resumed until 1540, after which, save for some brief gaps, a continuous series is afforded. If information is sought from subsidiary and miscellaneous sources, there is much difficulty because of uncertainty as to the meaning of the term " counsel " at various times. Accordingly, it is often

not possible to be sure just what is meant by the council nor what was its size nor whom it included.

In 1426 the king's council contained twenty-two members—four dukes, two archbishops, six bishops, five earls, and five lords.[2] About 1476 Sir John Fortescue proposed an improved council which should contain thirty-two members—twelve spiritual and twelve temporal members, holding during the king's pleasure, and four lords spiritual and four lords temporal, each holding for a year.[3] During all this period, however, there is almost no information about the size of the council. In the reign of Henry VII a book of entries of council work gives some attendance figures, from which it appears that in the king's first year there were councils attended by twenty-six and thirty-four.[4] At various other times during this reign councils were attended by twenty-two, twenty-four, twenty-five, thirty-three, and thirty-nine.[5] In addition the list of names is sometimes followed by "et ceteri", which may mean either that the names of other members of inferior rank who were present are not given, or that certain outsiders were in attendance. In 1503 judgment was given by the king in a council of forty-one.[6] In the reign of Henry VIII the obscurity continues. In 1520 forty-one noblemen and ecclesiastics besides knights and others are given as of the king's council.[7]

The uncertainty herein has led to different conclusions. It has been asserted that at the beginning of the sixteenth century the council contained probably a hundred mem-

[2] "Here ensuen the names of all the Lordes of the Kynges Counsaille": *Rotuli Parliamentorum*, v. 407.

[3] *The Governance of England* (ed. Charles Plummer, Oxford, 1885), p. 147.

[4] Liber Intrationum: Cora L. Scofield, *Court of Star Chamber* (Chicago, 1900), pp. 6, 7.

[5] *Ibid.*: Baldwin, p. 436.

[6] *Calendar of the Patent Rolls, Henry VII, 1494-1509*, pp. 388, 389.

[7] *Letters and Papers of Henry VIII*, III. i. 236, 237.

bers.[8] It may, however, be that while certain ones were "of counsel" this meant no more than that they were retained for particular advice or service, especially legal service, and that they were not definitely included in any conciliar body. At all events, no such large list of members has ever been discovered for this period nor for any part of the sixteenth century.

At a later time the history of the privy council concerns a body that was now small, now large, one that often showed tendency to expand, to become ineffective because of size, and to be then reduced, or have its work committed to a part of itself. That had evidently been so before. In 1526 certain "Ordinances for the Household" were made at Eltham, of which one part concerned "Establishment of a Counsell." For better performance of the king's business and that matters might be presented and dealt with when he was journeying about, "it is ordered and appointed by his Highness, that a good number of honourable, virtuous, sadd, wise, experte and discreete persons of his counsell, shall give their attendance upon his most royall person": namely, twenty—containing the principal and most trusted nobles and officials. Since it might be that some of them could not thus always be present, ten of them in particular were to attend, and if some of these latter must be absent, then four especially, or at least two of them, should meet twice daily in such place as might be appointed for "the Councell chamber."[9] It was at this time the custom, as it had been formerly and as often it was during the next hundred years, for some of the council to remain near London and some to accompany the king. The so-called Eltham Ordinances do no more than attempt to provide that certain of

[8] Pollard, *E. H. R.*, xxxvii. 343.

[9] Harleian MS. 642: in *A Collection of Ordinances and Regulations for the Government of the Royal Household*, etc. (Society of Antiquaries, London, 1790), pp. 159, 160.

the principal members of the council shall always be with the king. Yet, great importance may be ascribed to the measure. On various occasions in the past ordinances had been issued for the king's household, but none had such a provision. In effect, this regulation now might result in giving organic form to a part or quantity of the king's council, namely, certain members about his own person. And subsequently, from time, convenience, attrition and the keeping of records by designated clerks, that group would indeed be the king's privy council whether it attended his person or not.

Actually, the regulation of 1526 gives no exact information as to the size of the council. About a year later, however, a list of members sworn to the council contains forty-six names.[10] At least fifteen of those who were given in the list had been specified in the ordinance of Eltham. In 1536 Henry VIII answering a complaint of the rebels in Yorkshire, that he had not many noblemen in his privy council, replied: "in our Pryvey Counsell We have" thirteen, whom he named: though the context does not make it certain that he was thus enumerating all the members of his privy council.[11] About this time, as on other occasions, there were proposals to make the council smaller and more effective. In 1538 a certain one intended to propose a reform: "to withdraw the King's council more secret together, and to avoid spiritual men therehence for divers considerations." [12]

It should be said that during all this time the body of the King's councillors are designated by the term "counsel" or "councel" for the most part, though on occasion

[10] "Counsellors sworn to the king anno regni regis Henrici VIII decimo octauo": Lansdowne MS. 160, art. 92, in Scofield, pp. 31, 32.

[11] *State Papers, Henry VIII*, I. ii. 508.

[12] Memoranda of Philip Hobie: *Letters and Papers of Henry VIII*, XIII. ii. 416.

"privy counsel" or "secret councel" is the term employed. This was the case for a long time thereafter.

10 August 1540 a meeting was held with whose record the council register begins again after long intermission. The record asserts that nineteen being present, "an order was taken and determined by His Majesty, by thadvice of His Highnes Privy Counsell, whose names herunder ensue" that there should be "A Clerke, attendant uppon the sayde Counsell" to write, register, and enter all decrees, determinations, and letters in a book, to remain as a ledger and a memorial for discharge of the councillors. William Paget, "late the Queenes Secretary," was appointed by the king and sworn.[13] The members named in the record were:

The archbishop of Canterbury	
lord chancellor	Lord Audley of Walden
lord high treasurer	duke of Norfolk
lord president and great master of the king's house	duke of Suffolk
lord privy seal	earl of Southampton
great chamberlain	earl of Sussex
earl of Hertford	
great admiral	Lord John Russell
bishop of Durham	
bishop of Winchester	
king's chamberlain	Lord Sands
lord warden of the Cinque Ports and treasurer of the king's household	Sir Thomas Cheyney

[13] *S. P., Henry VIII.* I. ii. 646, 647; Sir Harris Nicolas, *Proceedings and Ordinances of the Privy Council of England,* vii. 3, 4.

comptroller of the king's household	Sir William Kingstone
master of the horse	Sir Anthony Browne
vice chamberlain	Sir Anthony Wingfeeld
king's secretary	Sir Thomas Wriothesley
king's secretary	Sir Ralph Sadler
chancellor of the augmentations	Sir Richard Rich
chancellor of first fruits and tenths	Sir John Baker.

To one critic this has seemed substantially the beginning of the privy council, a smaller body that had now become distinct in some respects from a larger body—the king's council.[14] It is assumed that the body, designated in the record as privy council, recognized its own separateness and identity in appointing a clerk of its own to keep its record. The lists of attendance now regularly given show no members, other than those named in the first account, until others appear whose appointments as members are specifically noted in the record. In the period 10 August to 30 September no other names appear in any of the attendance lists, and five of them are given for the first day only, which might, indeed, indicate that the names of all the members rather than of those present were given in the first notice.[15] During November only seventeen members were present at the various meetings, no new names appearing.[16]

It should be remembered, however, that attendance lists are seldom conclusive evidence of the total membership, since where membership lists and attendance lists are available for comparison, generally it is evident that some

[14] Pollard in *E. H. R.*, xxxviii. 42, 43. "Out of a large and common council, to which councillors everywhere had equally belonged, there had emerged a small hierarchy in the form of a privy council": *Ibid.*, p. 48.

[15] Nicolas, vii. 3-47.

[16] *Ibid.*, pp. 74-87.

of the members were never present over a long period. Furthermore, there is no evidence whatever that this council record is of any exclusive organization. It would seem to be of the " counsel " or councillors with the king only. It is certain that at this time councillors not with the king also held council meetings. In the general scantiness of records then one can neither be certain of having all the records that were taken nor certain that all bodies of councillors kept records of their proceedings. Later on, in the time of James I, for example, when also the councillors were frequently separated in two groups, one at Whitehall and the other with the king, while there was constant interchange of letters between them, it was the group at Whitehall that kept what is now known as the register of the privy council, and there is no similar record remaining from the other group. During 1541 various letters to the council with the king were signed by some or all of those present at council meetings at Westminster, the several lists of signatures including seventeen names, of which twelve were of councillors present on different occasions at meetings of the council with the king, while five were of other councillors.[17] Neither the records nor the lists can be taken as certainly complete. During this time numerous meetings were held almost simultaneously, at Westminster and wherever the king happened to be. 11 August, twelve councillors sat at Lincoln, and five others held a meeting at Westminster.[18] 15 October six councillors were at Westminster, and next day eight others were in a meeting at Collyweston.[19]

There is no evidence whatever to show that the councillors with the king made up a smaller, exclusive council. Some of the councillors accompanied the king, others

[17] *S. P., Henry VIII*, I. ii. 662-727.
[18] Nicolas, vii. 230, 231; *S. P., Henry VIII*, I. ii. 674.
[19] Nicolas, vii. 258; *S. P., Henry VIII*, I. ii. 687.

remained at London. The two groups had no definite or separate organization, and maintained no distinction in respect of personnel. They constantly merged one into the other, partially as councillors recently with the king went and sat with those at London, and as some of those who had been at London went to join the councillors with the king; and completely when in Westminster or elsewhere the groups of councillors sat together. There was constant communication between the two groups when separation existed, and much the same work was done by them both. There were many instances of this under Henry VIII as there were afterwards in the time of James I.[20]

In October 1540 in a privy council of five at More Park, " A lre was sent to diverse of the Lordes of the Pryvey Counsaill being at Londoñ in Comission for the subsidy." [21] Shortly after, following a conference between the king and the French ambassador, the discourse was signified " unto the Counsail at London from the Counsail beyng here," the councillors there to consider the treaties and the statutes, to answer the emperor and the French king, and give their opinions to the king of England.[22] Somewhat later the privy council record says that on 23 November the king and the queen, accompanied only by the lord privy seal, the lord admiral, the master of the horse, and the vice chamberlain, " of his Pivey Counsail," and with ladies and gentlemen of the privy chambers, departed to Oking, where they remained until 7 December, when they departed for Oatlands, there remaining until 18 December, on which day they came to Hampton Court. Meanwhile, Secretary Wriothesley and the comptroller of the household—both specifically denoted privy councillors in the register—remained at Windsor—where

[20] For example, *S. P., Henry VIII,* I. ii. 662-744.
[21] Nicolas, vii. 59.
[22] *Ibid.,* p. 65.

the privy council had been with the king before the departure for Oking: "The Lordes of the Counsail beyng departed to their owne howses, and yet assemblyng togethers at Westm for the Kingis affayres at sundry tymes as they had advertisement of the same from his Highnes." At the duke of Suffolk's house 13 December was a meeting at which were present the lord chancellor, the duke of Norfolk, the duke of Suffolk, the great chamberlain, the earl of Hertford, the bishop of Durham, Wriothesley, and the chancellor of the augmentations.[23] All of them appear elsewhere as of the privy council.

The record of 10 August 1540 speaks of the members designated as of "His Highnes Privy Counsell." Pollard believes this designation to be of importance, as signifying a smaller body of councillors in contrast with the larger council, differentiation being marked by the terms *council* and *privy council*, the latter term being seldom found before 1538-40, but afterwards often occurring. Apparently there is little or nothing herein to sustain the contention. The term *council* or *king's council* occurs, indeed, much more frequently than *secret council* or *privy council* in the earlier time; but doubtless there was often deliberate avoidance of a term denoting secrecy of the king's particular counsellors in relation to the larger body of king's counsellors in his parliament. Moreover, probably the shorter term was often employed because it was shorter and more convenient than the longer; and it may be that when the shorter one was employed the longer was at times understood. There can be no doubt that this was true in the later period, and examination of the records makes it evident that *council* was much more employed than *privy council* for several generations after 1540.

[23] Nicolas, vii. 89.

It is not true that the designation " privy " or " secret " was almost never used in connection with council in the earlier times. From the fourteenth century onward there is a considerable number of instances in contemporary official records, and other references appear in the popular literature of the times. At the beginning of the sixteenth century translations of these terms occur in the despatches sent back from England by the Spanish, French, and Venetian ambassadors. And it is noticeable, as the mass of the records increases in the course of the reign of Henry VIII, that numerous instances of the term *privy council* occur along with similar references to the *council,* for a score of years before Paget was appointed clerk of the *privy council.*

Baldwin, the principal authority on the earlier period, declares that the term " privy council " never became one of general acceptance during the Middle Ages, since the idea of secrecy was unpopular, and the term indicated not a small council but a council that was held in secret.[24] It may be said that in a later age the term " cabinet council " was likewise unpopular, and hence was avoided in any official designation or allusion long after it was currently used by enemies and by outsiders. None the less, in the reign of Edward II a certain Philip Slane is described as " Iuratus de consilio " and also as " de secreto consilio iuratus." [25] During this time the terms *secretum consilium* and *privatum consilium* and also their French equivalents appear on the rolls.[26] About the middle of the fourteenth century Murimuth says that in 1345 the king summoned a council at Westminster at which were present certain ones " de secreto concilio regis." [27] Next year the commons prayed that aliens be forbidden to send

[24] *The King's Council in the Middle Ages,* p. 105.
[25] Close Rolls, 13 Edward II: Baldwin, pp. 105, 106.
[26] *Ibid.,* p. 105.
[27] *Continuatio Chronicarum* (Rolls Series), pp. 176, 177.

letters beyond the sea unless such letters were shown to the chancellor or others "Grant & prive du Conseil." [28] Two years later the commons asked that no imposition or tallage be imposed by the king's "Prive Conseil" without grant and assent in parliament.[29] A little later a case was heard by the treasurer "et alii de privato consilio." [30] According to Barbour, writing about 1375,[31]

> The Kyng sat into parleament;
> And forouch hys consaile priuie,
> The lord the bruce thar callyt he.

In 1376 Lord Latimer is described as chamberlain and of the king's "Prive Conseil." [32] Shortly after the commons prayed that he be put out of all his offices "& des privez Conseilz entour le Roy." [33] In one of the *Canterbury Tales,* written about a decade later, Chaucer declares that the sultan of Syria "for his priuee conseil sent." [34] In 1390 Gower wrote of the prince of Tyre: [35]

> He hadde a feloun bacheler,
> Which was his prive consailer

And a little after he relates that a certain Florent had his "prive conseil" of those whom he most trusted.[36] About this time William of Wykeham is spoken of as "Capitalis Secreti Consilii." [37] During all this period the term *council* is used far more frequently than *privy* or *secret council,* but, one cannot always be certain that this was not abbreviation for convenience.[38]

[28] *Rotuli Parliamentorum,* ii. 163. [29] *Ibid.,* ii. 201.
[30] Memoranda Roll, Exchequer: Baldwin, p. 105.
[31] *The Bruce* (Early English Text Society, London, 1870), i. 602-4.
[32] *R. P.,* ii. 324. [33] Ibid., ii. 372.
[34] *The Man of Law's Tale,* 204.
[35] *Confessio Amantis* (E. E. T. S., 1901), viii. 503, 504.
[36] *Ibid.,* i. 1738, 1739. [37] *R. P.,* iii. 388.
[38] In 1372 the commons and others petitioned "qe nul homme ne soit restreint ne article de nul Estatut repelle par les Prives de Conseil": *R. P.,* ii. 311. In this document "conseil" is mentioned many times without any qualification.

In 1450 the duke of Suffolk was described by parliament as one of the "grete and pryve Counseill."[39] About the same time the author of a romance made one of his characters tell his "prevy counseile" that he would go to court.[40] Fortescue wrote that no matter treated in the "counsell" could be kept "prive."[41] In 1507 the Spanish ambassador wrote with respect to negotiations for a marriage between Henry VII and the Infanta Juana, that he had spoken with the king and some of his secret council.[42] In 1522 a certain one wrote that Henry VIII would not fail to meet the emperor at Dover, bringing with him the lord steward, the lord chamberlain, and others of his "Pryvie Counseyll and Pryvie Chambre."[43] Three years later Wolsey wrote that he had asked Charles V's chamberlain to come to a meeting of certain nobles and "other of the Kinges Privey Counsail," adding that the king by advice of himself and "other of his Privey Counsail" had sent a commission to Rome.[44] In 1529 a letter is addressed to "Master Bryan Tuke, of the Kyng's pryve counsell."[45]

According to Pollard, after 1529, "for three or four years, during the zenith of Cromwell's influence, the phrase becomes rarer until in March 1538 Thomas Derby is officially described as clerk of the privy council."[46] But in 1531 the Venetian ambassador wrote that parliament ever observed the will of his majesty and his secret

[39] *Ibid.*, v. 178.

[40] *Merlin* (E. E. T. S., 1899), ii. 251.

[41] *The Governance of England*, p. 145.

[42] Dr. de Puebla to Ferdinand, London, 15 April 1507: *Calendar of Spanish Papers*, supplement to i. and ii. p. 91. He speaks of "aquellos pocos de su secreto Consejo" who were cognizant of the matter: *Ibid.*, p. 93.

[43] Sir Richard Wyngfeld to Wolsey: *S. P., Henry VIII*, I. i. 98.

[44] Letter to Richard Sampson: *S. P., Henry VIII*, vi. 394, 399.

[45] Letter of Sir Robert Wingfield, 22 May 1529: *Letters and Papers of Henry VIII*, IV. iii. 2471.

[46] *E. H. R.*, xxxvii, 360.

council (secreto Consiglio). He spoke of nine members.[47] In 1532 a contemporary notes the interment of "dompnus John Islipp . . . one of the King's Majesty's Privy Council."[48] In this and in the following year Cromwell is addressed, among other instances, as "on of the Kynges moste honorable Councell," "Counsaillour to the Kinges Highnes," "of the Kynges moost honorable Councell," "oone of the Kinges Priveye Counsell," "oon of the Kinges Privey Counsell," "of the Kinge his Privei Counsel," "of the Kynges Majestys Privye Councell."[49] In 1534 a Scot writes to him as chief secretary and one of the "Priwe Consell" and on another occasion as of "the Secreit Counsall" of the king.[50] The term "Prive Conseil" was well known during this period in French usage, as it had been in earlier times.[51]

In 1536 a correspondent informed Cromwell that the king desired all "of the Prevye Counsaile" that were in or near London to come to Windsor for a meeting.[52] That year Henry, answering the rebels in Yorkshire who had complained of the lack of noblemen in his privy council, said he well remembered who were "Counsaillours" at the beginning of his reign, and that now in his "Pryvey Counsell" he had certain members, whom he proceeded to name.[53] Three years later the French ambassador wrote of some of the lords of the privy council.[54] A year afterwards he wrote that Gardiner had been called to the privy council since the fall of Cromwell.[55] On one occa-

[47] Lodovico Falier, *Relazione d'Inghilterra*: Eugenio Albèri, *Relazioni degli Ambasciatori Veneti al Senato* (1839-63), I. iii. 21: "Entrano nel secreto Consiglio."

[48] *Letters and Papers*, v. 472.

[49] *S. P., Henry VIII*, I. ii. 388, 406, 409; VII. 455, 481, 499, 521; and *passim*.

[50] *Ibid.*, v. 14, 15.

[51] *Ibid.*, vii. 593.

[52] *Ibid.*, I. ii. 460, 461.

[53] *Ibid.*, I. ii. 507, 508.

[54] "Ces seigneurs du conseil privé de ce roy": Marillac to the constable, 26 July 1539: Jean Kaulek, *Correspondance Politique* (Paris 1885), p. 119.

[55] *Ibid.*, p. 195.

sion he and another were summoned to the king's residence and taken into the privy council chamber (chambre de conseil privé), where the repudiation of Anne of Cleves was read.[56]

After the order of 10 August 1540, the records of what may certainly be denominated the *privy council* as well as numerous other sources speak of the body from time to time as the *privy council*; but, as had previously been the case, for the most part it continued to be known as the *council*. A week after the clerk was appointed, it was agreed that a certain one should be summoned before "the Counsaill." [57] A few days later "the Counsaill" sent an answer to certain men of Calais.[58] In the council record the next mention of "Pryvey Counsail" comes more than five weeks after the record begins.[59] In October Marillac wrote of daily meetings of the council.[60] About this time the record states that a matter was signified "unto the Counsail at London from the Counsail beyng here." [61] A council letter speaks of both bodies as the "Privie Counsail." [62] An emissary abroad addressed "the Kyng his most honorable Cownselle." [63] In November a certain one was summoned before "the Counsail," and others before the king and "his Ma^tes Privey Counsail." [64] In December the emperor's ambassador was with the king and "the Counsail." [65] In January the king willed "his Counsaill" to issue an order.[66] The French ambassador wrote that Henry calling apart his council

[56] *Ibid.*, p. 200.
[57] Nicolas, vii. 5.
[58] *Ibid.*, vii. 10.
[59] 18 September 1540: Nicolas, vii. 39.
[60] "Ces seigneurs du conseil s'assembloient tous les jours": Kaulek, p. 230.
[61] 15 October 1540: Nicolas, vii. 65.
[62] 16 October 1540: *S. P., Henry VIII*, I. ii. 655, 656.
[63] *Ibid.*, viii. 469.
[64] Nicolas, vii. 84.
[65] *Ibid.*, p. 95.
[66] *Ibid.*, p. 109.

(son conseil) debated a matter.[67] In February several entries in the council record note that "the Counsail didde not sitte."[68]

Notices of the *privy council* continue to be mingled with numerous notices of the *council,* in many instances each of the designations being obviously in respect of the same body. In August 1541 the duke of Norfolk told the French ambassador that the king with his council (son conseil) had secretly concluded that in default of heirs male Mary should succeed.[69] He speaks of Paget—who had been made clerk of the privy council in August 1540—as secretary of the council.[70] The councillors at Westminster writing to the councillors with the king address them as "Lordes and others of the Kinges Majesties Counsaile."[71] In November the council record speaks of what had passed before the "Cownsell attendīg apoñ the Kinges parsoñ."[72] A few days later an examination taken by "the Clarcke of the Cownsell" was presented to "the Cownsell."[73] In December the council with the king addressed a communication to "the Right Honourable, and our very good Lordes, and others of the Kinges Majestes Pryvy Counsaile, at London." Next day councillors in London wrote to "our assured loving Freendes, the Lord Admyral, and others of the Kinges Majesties Counsail, attendant on his most noble Person."[74] In June 1542 a certain one was bound to attend upon "the Counsell," and at the same meeting another was ordered to attend upon "the Privye Counsell."[75] In 1543 a statute for certain ordinances in Wales provided that nominations spec-

[67] Kaulek, p. 264.
[68] Nicolas, vii. 130, 131.
[69] Kaulek, p. 329.
[70] "Ung secrétaire du conseil": *ibid.,* p. 348.
[71] 15 October 1541: *S. P., Henry VIII,* I. ii. 687.
[72] Nicolas, vii. 264.
[73] *Ibid.,* p. 266.
[74] *S. P., Henry VIII,* I. ii. 709, 712.
[75] *Acts of the Privy Council of England* (new series, ed. by J. R. Dasent), i. 11.

ified should be made "to the Lordes of the Kinges moste honorable Counsaill attending upon his Graces persone."[76] In 1555 the council ordered a certain one to pay one hundred pounds to a clerk of the "Counsaill" to be spent by him as directed by "the Lords of the Counsayll."[77]

More striking than allusions are the titles of some of the volumes of the council record. "The Register of the Counsaill begunne the first day of Januarie, *Anno*, 1557."[78] In 1577, "The Councell Boke."[79] In 1590 at a council meeting "their Lordships commanded this their Order to be entred into the Register of Councell."[80] In 1598, "A Register Booke of Councell causes."[81] Such titles are found well on into the seventeenth century. In 1599 a statute mentions "the Lord President of the Queenes Honorable Counsaile," and later speaks of him as lord president of the "Pryvie Counsaile."[82]

Steadily throughout the seventeenth century, and on into the eighteenth, the term *council* is used frequently along with the term *privy council*; and while generally it is evident that the two terms are used in respect of the same body, there are many instances as late as the time of William or of Anne where only the context renders this certain. It may be said for this later period that obviously here are cases where a shorter term was from convenience being used for a longer, this usage being well understood. For the most part that is certainly true. To a considerable extent, however, it seems also to have been true of the sixteenth century, and for the years before 1540 as well as for those that came after. Accordingly, statement maintaining the appearance of a *privy council* distinct from a *council* about 1540 rests upon little or no

[76] *Statutes of the Realm*, iii. 931.
[77] *A. P. C.*, v. 116.
[78] *Ibid.*, vi. p. vii.
[79] *Ibid.*, x. p. vii.
[80] *Ibid.*, xx. 12.
[81] *Ibid.*, xxix. 3.
[82] *Statutes of the Realm*, IV. i. 387, 390.

foundation in so far as it is founded upon distinction in respect of these terms.

For 1542 and 1543 lists of attendance at meetings of the privy council show that there were at least twenty-two members.[83] In 1545 these lists show some new names while others no longer appear, the membership being at least twenty. In December 1546 Henry VIII appointed sixteen nobles and important officials to be his executors "and to be of the Privey Counseill" until Edward was eighteen years old.[84] This list contained by no means all of the important officers mentioned in the list of 1540. In all probability it can no more be taken as a list of the members of the privy council than could a list of lords justices appointed in the eighteenth century. In the time of George I or of George II the lords justices were all members of the privy council, but they made up only a part of the council. Such may have been the case with the executors appointed by Henry VIII. It is true that a Venetian account of the English government written in 1551 might seem to indicate that the council contained sixteen, since he asserts that such a number of great ones (grandi) made up the king's domestic council.[85] It should be noted, however, that twenty-two were present at a meeting at Westminster in November of that year;[86] and that shortly before in the record continuing that begun by the "Privy Counsell" in 1540 there is a list of "The Names of the Counsaill, ij^{do} Novembris, 1551," which contains thirty-three names.[87] In October 1553 there were

[83] *A. P. C.*, i. *passim*.

[84] *Ibid.*, ii. 3.

[85] "Ben sono alcune cause di grandissima importanza, che si riferiscono ad un luogo che si chiama la camera stellata, dove interviene la persona del re . . . Ma i negozj d'importanza che appartengono al principe ovvero al popolo, sono riferiti al domestico consiglio del re, nel quale entrano, secondo il volere del fu re Enrico, sedici grandi": Daniel Barbaro, Relazione d'Inghilterra (1551): Albèri, *Relazioni degli Ambasciatori Veneti al Senato*, I. ii. 235, 236.

[86] *A. P. C.*, iii. 416.

[87] *Ibid.*, p. 513.

meetings at which were present twenty-four and twenty-five respectively.[88] In 1554 a Venetian account reports that the king's council, which has the management of all affairs of state, contains forty members.[89]

For the reign of Elizabeth there are, unfortunately, for the most part no lists of the members of the council, so that the number has to be deduced from lists of those who attended. In 1559 twenty members were present at the various meetings recorded in the register:[90]

Earl of Arundel	lord steward
Sir Nicholas Bacon	keeper of the great seal
earl of Bedford	governor of Berwick
Sir Ambrose Cave	chancellor of the duchy of Lancaster
Sir William Cecil	principal secretary of state
Sir Thomas Cheyney	treasurer of the household
Lord Clinton	lord high admiral
Earl of Derby	
Lord Howard of Effingham	lord chamberlain
Sir Francis Knollys	vice chamberlain
Sir John Mason	treasurer of the chamber
marquis of Northampton	
Sir Thomas Parry	comptroller of the household
Sir Edward Rogers	comptroller of the household
earl of Pembroke	lord president of Wales
Sir William Petre	
Sir Richard Sackville	
Sir Ralph Sadler	

[88] *Ibid.*, iv. 354, 360.

[89] "Il governo delle cose di Stato è tutto in mano del Consiglio di S. M., il quale al presente è circa di numero quaranta, sebbene sotto li altri re al più non sono passati venti": Giacomo Soranzo, Relazione d'Inghilterra (1554): Albèri, I. iii. 76.

[90] *A. P. C.*, vii.

earl of Shrewsbury
president of the council in the north
marquis of Winchester
lord treasurer
archbishop of York.

In 1571 thirteen attended.[91] In 1579 seventeen.[92] In 1581 sixteen.[93] In 1586 and 1588 seventeen.[94] In 1591 eleven.[95] In 1596 twelve.[96] In 1598 a list of "The names of the Lordes and others of her Majestie's Moste Honorable Privy Councell" contains eleven:[97]

The archbishop of Canterbury
lord keeper of the great seal
lord high treasurer
earl marshal
lord high admiral
lord chamberlain
treasurer of the household
lord high butler
comptroller of the household
secretary of state
chancellor of the exchequer.

[91] *A. P. C.*, viii. [92] *Ibid.*, xi. [93] *Ibid.*, xiii.
[94] *Ibid.*, xiv, xvi. [95] *Ibid.*, xx.
[96] *Ibid.*, xxvi. [97] *Ibid.*, xxix. 3, 4.

CHAPTER III

COUNCIL AND STAR CHAMBER

AT DIFFERENT times during the Tudor period there were bodies of councillors, varying in number from a dozen to four times that many or more, spoken of sometimes as *privy council*, more frequently as *council*, and often mentioned in connection with the Star Chamber. The problem of the relations or identity of council, Star Chamber, and privy council is of primary importance.

No longer does any doubt remain that there was no establishing of a court of Star Chamber, as was once supposed, by a statute of Henry VII. It is certain that for a long time before the end of the fifteenth century king's council and council in Star Chamber had been one and the same body; and that in so far as there was a court of Star Chamber, it was no more than the king's council sitting in the Star Chamber at Westminster, attending to conciliar and administrative business as well as judicial work, in accordance with the lack of specialization as to function then prevailing. Without doubt this continued also in the sixteenth century, but there is much uncertainty about just how it was continued. Pollard maintains that king's council and court of Star Chamber were one and the same body as they had been before, but that in the later years of Henry VIII the privy council was differentiated from them as a smaller and a separate body, though in the Stuart period again Star Chamber and privy council were merely two aspects of the same body. At present the absence of exact information about the composition and membership of Star Chamber and of council during this time makes it impossible to regard

these theses as more than hypotheses yet to be proved. In the meantime considerable doubt must remain.

It is abundantly evident that in the fifteenth century and in the earlier part of the sixteenth, council and Star Chamber were but different appellations for the same body. The Star Chamber at Westminster was then a usual place for the assembling of the king's council.[1] A meeting "in consilio nostro" at Westminster in 1453 was "in the Sterred Chambre."[2] In 1482 one of the Star Chamber papers contains an address "To the kyng our Souereyne lorde and to the lordys of his most noble Councell."[3] Another a little later has a complaint "To the right noble sadde and discrete lordes of the kyng our soueraigne lordis counsaill."[4] In 1503 a petition asks that a certain one be commanded to appear before "your highnes and your most honorable Counseill in the Sterre Chambre at Westmenster."[5] Next year a law provided that titles might be proved before "the Lordis of the Kynges honorable Counseill in the Sterre Chamber at Westm̄."[6] Another statute provided that information might be given against offenders before the chancellor or the keeper in the Star Chamber or before the council attending the king's person.[7] In 1508 a petition asked that a certain one be commanded to appear before the king "& other of your most honarable Councell in the Stere Chaumbre at Westminster."[8]

About 1539 complaint of a riot was made "in the Ster Chamber affore the kynges councell."[9] In 1540, in

[1] Pollard, *E. H. R.*, xxxvii. 517-20; see Scofield, *The Life and Reign of Edward the Fourth* (London, 1923), ii. 374.

[2] Patent Roll, 32 Henry VI, 20: *Paston Letters* (ed. Gairdner), i. 336.

[3] I. S. Leadam, *Select Cases before the King's Council in the Star Chamber* (Selden Society, London, 1903), p. 6.

[4] *Ibid.*, p. 15.

[5] *Ibid.*, p. 151.

[6] 19 Henry VII. c. 18: *Statutes of the Realm*, ii. 663.

[7] 19 Henry VII. c. 14: *S. R.*, ii. 659.

[8] Leadam, p. 273.

[9] *Historical MSS. Commission, Middleton MSS.*, pp. 142, 144.

a warrant for the appointment of two secretaries of state, it was ordained "that in all Counseilles, aswel in His Majesties Houshold, as in the Sterre Chambre, and elleswhere" all lords should sit above the secretaries.[10] Next year at a meeting of the council a certain one was bound to appear personally before the chancellor "and other the lordes of the Kinges moost honourable Counsaillors in the Starre Chambre at Westm̄."[11] In 1542 a statute prescribed punishment for those convicted of counterfeiting, by examination or testimony, "in the Starr Chamber at Westmynster before the Kinges most honorable Counsell."[12] In Mary's last year a law provided as penalty for abductors of young heiresses such fine as might be assessed "by the Cōnsell of the Queenes Highnes . . . in the Starre chamber at Westminster"; and that "the King and Quenes Highnes Honourable Coūcell of the Starre Chamber" should have authority to hear and determine such offenses.[13]

In 1590, in a council of nine at Richmond, it was ordered that on the following Friday a disputed peerage case should be heard at the Star Chamber "by such of their Lordships and others"—there is as much reason to think that this meant non-noble members of the council as persons not members—"as are therunto appointed by her Majesty": apparently a meeting of the council or a committee thereof to deal with council business in the Star Chamber.[14] In 1597 according to the privy council record, a petition was exhibited to the lord keeper "(at the Starr Chamber at the Counsaile Table there after dynner) diverse other of the Lordes being present," whereupon a direction was given by the lord keeper "and

[10] *S. P., Henry VIII,* I. ii. 623, 624.
[11] Nicolas, vii. 114.
[12] 33 Henry VIII. c. 1: *S. R.,* iii. 827.
[13] 4 & 5 Philip and Mary. c. 8: *S. R.,* IV. i. 329.
[14] *A. P. C.,* xx. 251.

the rest of her Majesty's Commissioners that were then present." [15]

That the council and the council or court in Star Chamber were one and the same, and that the council or court of Star Chamber was no more than the king's council holding its meeting at Westminster in the Star Chamber there can be no doubt. Much more difficult is the problem of Star Chamber and privy council. In the Stuart period and until the changes made by Long Parliament privy council and Star Chamber were essentially aspects of the same thing, the privy council for the most part doing conciliar and administrative work, the same members, often reinforced by some of the judges, giving themselves to what was predominantly judicial work in the Star Chamber. It may be added that whether or not some technical signification still adhered to the term "council", in general that term was then used merely to signify the privy council. According to Pollard the Stuart organization resulted from a practice very different from what had preceded. "Until nearly the end of her reign," he says, "Elizabeth maintained, so far as the personnel of her privy council was concerned, that discrimination between law and politics, the judicature and the executive, the feeling for which had led in 1540 to the definite organization of the privy council." [16] In the author's opinion, no body of conclusive evidence is cited to support this statement, and in the absence of essential information about the composition and meetings of the "council" or Star Chamber perhaps no conclusive evidence can be adduced. It is probable, however, that such definiteness of institution and sharpness of distinction as Pollard conceives did not characterize constitutional development in

[15] *A. P. C.*, xxvi. 479.

[16] *E. H. R.*, xxxviii. 60. He maintains that the Stuarts by assimilating the personnel of the privy council and that of the Star Chamber did not a little to bring on the great rebellion against themselves.

the sixteenth century, and that such opinion results from unwarranted reading back into earlier times of ideas that developed much later.

The fundamental difficulty arises from absence of lists of the members of the council or court of Star Chamber and from the lack also of attendance lists at meetings—such lists exist in abundance for the "privy council". There is much information about cases tried in Star Chamber and numerous papers relate to the body, sometimes minute accounts of what was said and done by members present; but there is no register or journal of business, which would here be the primary and most useful source of information. If such a record was once kept it is lost or no longer exists. There is, indeed, the *Liber Intrationum* or book of entries, which contains brief and scanty record of some meetings of the council in Star Chamber, and this is of very great interest; but what it contains is too slight to be of much use in deciding the questions most in dispute. Accordingly, for the sixteenth century, and to some extent for the seventeenth, the composition and membership of the council in Star Chamber is uncertain. It can be discussed only in the light of allusions and miscellaneous or chance information.

In the latter part of the fifteenth century Fortescue declared that the "kyngis counsell" was wont to be chosen from great princes, the greatest lords spiritual and temporal of the land, and from other men that were in great authority and office.[17] In 1518 a meeting in the Star Chamber, presided over by Wolsey, was attended by thirty-four.[18] In 1525 Henry VIII wrote to his ambassador sent to Charles V that he consented to the conditions of peace offered by the French, after consultations "betweene Us and the Lordes and other of our Counsaile, wherunto were called thArchbisshop of Caun-

[17] *The Governance of England*, p. 145. [18] Scofield, p. 30.

terbury, the Dukes of Norfolk and Suffolk, the Marquesses of Dorset and of Excester, a great nomber of Erles, the Bishop of Elye, with diverse Barons and other."[19] Whether this was an ordinary meeting of the king's council, whether the council was at this time a body of indefinite extent, whether this is an instance of the king calling whom he would on important occasions in a great council of magnates, as had once been the custom and still continued to be done from time to time, one cannot be certain. There is no list of the members of council in Star Chamber at this time to show that a great numbers of earls were regular members.

In 1530 there was a meeting in Star Chamber attended by thirty:[20]

The lord treasurer
duke of Norfolk
lord privy seal
bishop of London
bishop of Lincoln
bishop of Wells
abbot of Westminster
duke of Suffolk
marquis of Dorset
marquis of Exeter
earl of Oxford
earl of Northumberland
earl of Shrewsbury
Viscount Fitzwater
Viscount Rochford
Lord Mountjoye
Lord Darcye
Lord Sandes
prior of St. John's
chief justice
chief justice

[19] *S. P. Henry VIII*, vi. 478.
[20] Lansdowne MS. 1, art. 44: Scofield, p. 30.

chief baron
treasurer of the king's household — W. Fitzwilliam, Jr.
comptroller — Henry Guildford
Thomas Moore
William Pawlett
John Husie
Thomas Neville
Richard Weston
John Mordaunt
Bryan Tuke
William Fitzwilliam, Sr.

Some idea of the composition of the council in Star Chamber may perhaps be obtained from a statute of 1539, for the enforcement of proclamations made by the king. There it was provided that whoever failed to observe a proclamation made by the king "by thadvise of his Counsell" should be fined and punished if convicted before

the archbishop of Canterbury
chancellor
lord treasurer
president of the council
lord privy seal
great chamberlain
lord admiral
lord steward or grand master
lord chamberlain

"two other Bisshopys beinge of the Kinges Counsell" such as the king should appoint for this purpose

secretary
treasurer of the household
comptroller of the household
master of the horse

two chief judges
master of the rolls
chancellor of the augmentations
chancellor of the Duchy
chief baron of the exchequer
two general surveyors
chancellor of the exchequer
under treasurer of the exchequer
treasurer of the king's chamber

or before at least half of this number, of whom two from among certain important officials specified were to be present. The meetings to be "in the Sterr Chamber at Westm̄ or elsewhere." [21] Of these twenty-six mentioned —who may have been no more than a committee of the council—some fifteen presently appear in what the record calls the *privy council,* in 1540.

In 1565 Sir Thomas Smith, writing "Of the Court of Starre Chamber" says that it was composed of "the Lorde Chauncellor, and the Lords and other of the privie Counsell, so many as will, and other Lordes and Barons which be not of the Privie Counsell, and be in towne, and the Judges of England, specially the two chiefe Judges." [22] By itself this might be taken as decisive evidence that the council in Star Chamber or the court of Star Chamber was a larger body than the privy council, and to some extent a different organization, containing the privy councillors along with others.[23] In 1616 James I, in a speech in the Star Chamber undertook a description of the body: [24]

[21] 31 Henry VIII. c. 8: *S. R.,* iii. 726, 727.

[22] *De Republica Anglorum* (Cambridge, 1906), pp. 115, 116.

[23] Pollard says that in Elizabeth's reign any privy councillor could sit in Star Chamber, but that the rest of the court was constituted from time to time of such peers, bishops, judges as the crown or the chancellor chose to summon: *E. H. R.,* xxxvii. 536.

[24] *Works* (Cambridge, 1918), p. 335.

> The *Starre Chamber* . . . in the composition . . . is of foure sorts of persons: The first two are Priuie Counsellours and Iudges, the one by wisedome in matters of State; the other, by learning in matters of Law, to direct and order all things both according to Law and State: The other two sorts are Peeres of the Realme, and Bishops: The Peeres are there by reason of their greatnesse, to giue authority to that Court: The Bishops because of their learning in Diuinitie, and the interest they haue in the good gouernment of the Church.

This also would seem to indicate an indefinite membership of the council in the Star Chamber made by adding to the members of the privy council such of the magnates as the king chose to have present. But one cannot be certain from the statement alone that James's words mean more than that the Star Chamber was composed—as the privy council was—of peers, bishops, and others whose greatness came from their being in the privy council, to whom the judges were added—one or more of them being at times also of the privy council, while judges were often called into the privy council to give legal advice. Cowell, writing about the same time says it to be apparent from Sir Thomas Smith and from experience that the whole number of the privy council and also other "Barons spiritual or temporal" as be called thither have place in the court of Star Chamber.[25]

There is much evidence to the contrary, however. One of the most important treatises upon the Star Chamber was written in the time of Elizabeth by the clerk of the Star Chamber, William Mill.[26] Mill's statement about the membership is explicit: "I gather that to bee true which my father being a man of long service in that place

[25] *Interpreter* (ed. 1637): "Starre-chamber".

[26] "Treatise of the Starre chamber and power of the Priuy Councell": Hargrave MS. 216.

hath offten tould mee that noe man should sitt in the Courte but if hee were sworne of the Councell." [27] He further says that until the time of his last predecessor—about 1551—there was nothing done either in "the Courte publiquely or in the Inner Starr Chamber privately" but passed under the hands of his predecessors and was entered in the book of entries remaining of record in the court in Mill's custody in his own time.[28] He says that a fee was appointed to be taken by the clerk of "the Councell" from every one admitted to the council as a member. He affirms that the clerk ought to go to one present not sworn and tell him he should not be there. In the fifth year of Elizabeth, he says, in the case of the earl of Hertford—in Star Chamber—a great number of the noble barons of the realm assembled, not members of "the Councell," and offered to sit. The lord keeper declared to them that they should give place. So they did, divers of them tarrying at the bar to listen to the cause.[29] He adds further: "in former Princes tymes . . . you shall find the names of many Bishopps, doctors and others which were not of the King's Privy Councell noated to bee present at the sitting in that place but it is like that they were at the least sworne to bee Councellors of that place or at large as it was there termed which use Continued alsoe in King Henry the VIII° tyme." [30]

Coke, writing in the time of James I states clearly the composition of Star Chamber—only privy councillors and

[27] Hargrave MS. 216, fo. 202: Scofield, p. 13.

[28] Scofield, p. iii. Pollard's interpretation of this is that "council" and Star Chamber were the same body; that this explains Mill's statement, "which he did not quite understand himself"; that Mill's statement was probably correct to 1540, when clerks of the privy council—a different body—began their own particular register: *E. H. R.*, xxxvii. 531.

[29] Hargrave MS. 216, fo. 202: Scofield, pp. 12, 13.

[30] Hargrave MS. 216, fo. 326: *ibid.*, p. 33, note.

chief justices or their substitutes, he says, were standing members: [31]

> The judges of the same are (as you have heard) the grandees of the realm, the lord chancellor, the lord treasurer, the lord president of the king's councell, the lord privy seal, all the lords spirituall, temporall, and others of the kings most honourable privy councell, and the principall judges of the realm, and such other lords of parliament as the king shall name. . . . So this court . . . is or may be compounded of three severall councels. That is to say, of the lords and others of his majesties privy councell, always judges without appointment, as before appeareth. 2. The judges of either bench and barons of the exchequer are of the king's councel for matters of law, &c. and the two chief justices, or in their absence other two justices, are standing judges of this court. 3. The lords of parliament are properly *de magno concilio regis*, but neither these, being not of the king's privy councell, nor any of the rest of the judges or barons of the exchequer are standing judges of this court.

In the period of James I there is another description, by William Hudson, " of great experience in the Star Chamber." Altogether his account of Star Chamber is probably the best now existing.[32] Having spoken of the lord chancellor's position he gives account of the other members: [33]

> And first, as concerning the great and eminent officers of the kingdom, the lord treasurer, privy seal, and president of the council, their places or voices in this court, when the superior sitteth, are of no more weight than any other of the table . . . and the court is not

[31] Coke, *Fourth Institute*, c. 5.

[32] *A Treatise of the Court of Star Chamber*, in volume ii of *Collectanea Juridica, Consisting of Tracts Relative to the Law and Constitution of England* (London, 1791-2).

[33] Hudson, *Collectanea Juridica*, ii. 35, 36.

> alone replenished with noble dukes, marquises, earls, and barons, which surely ought to be frequented with great presence of them, but also with reverend archbishops and prelates, grave counsellors of state, just and learned judges, with a composition for justice, mercy, religion, policy and government. . . . The number in the reigns of *H.* 7 and *H.* 8 have been well near to forty; at some one time thirty; in the reign of queen *Elizabeth* oftentimes, but now much lessened since the barons and earls, not being privy councillors, have forborne their attendance. And the court was in the reigns of *H.* 7 and *H.* 8 most commonly frequented by seven or eight bishops and prelates every sitting-day.

Punctuation and verbal expression make it difficult to know exactly what Hudson signified as to the size of the court of Star Chamber, but apparently he meant to say that in the time of Henry VII and Henry VIII the membership was forty, and in the time of Elizabeth often as many as thirty.[34] That is very far from being like the hundred or more attributed to the king's council by Pollard for the earlier time. It is possible that Hudson meant not membership but attendance at council meetings, though for the most part the records of attendance surviving would not bear this out.

In another striking passage he adds his testimony to confirm the deduction which a student of the medieval council would make, that the council was still in theory and occasional practice what it had formerly been—the great council, to which any of the magnates might come or be invited:[35]

[34] Approximately the same passage, with different punctuation and so a different meaning, appears in a tract of about 1637: "Their number in the Reign of *Hen.* 7. and *H.* 8. have been near 40 at one time, and 30 in the Reign of *Eliz.* oft-times" . . . The author declares that the number had diminished, but that in the time of Charles I there were twenty-four and twenty-six at a time. Rushworth, *Historical Collections,* ii. 475.

[35] Hudson, *Collectanea Juridica,* ii. 24, 25.

Now, that every peer of the realm which is a lord of the parliament is *de magno concilio*, it appeareth partly by the writ by which they are called to the dignity, wherein is contained that the king desireth their conference *circa ardua negotia regni concilium suum impensare*, but especially for that they have used to sit and give their judgments in this high court as judges in the same, and that most usually and commonly until about the 30. Eliz.: and myself have heard a great lord, yet living, claim his right of sitting there in open court; to whom the *lord chancellor Ellesmere* gave this answer, that he knew not whether it were his master's pleasure that that question should be determined that day; but some other of the presence maintained stifly the baron's right; which seemeth to be agreeable with justice; for it is undoubted that *Henry earl of Lincoln* and the *lord Grey*, and divers others which were not of the council of state, were present, and sat and gave judgment when *mr. Davison* was sentenced. And how they were competent judges unsworn, if not by their native right, I cannot understand; for surely the calling of them in that case was not made legitimate by any act of parliament; neither without their right were they more apt to be judges than any other inferior person in the kingdom; and yet I doubt not but that it resteth in the king's pleasure to restrain any man from that table as well as he may any of his council from the board.

The meaning of the conflicting and somewhat uncertain evidence could be better determined if there were for the Star Chamber lists of membership or even a large number of lists of attendance at meetings. There is, however, scarcely a satisfactory list of the members; the records of attendance are generally occasional and scattered; and some of those that exist occur before the record of the register that begins in 1540, so that comparison cannot be made.

In November 1541 there was a meeting at Westminster: "The forenone," says the record, "the Lordes sate in the Sterrechawmber, and all the afternone wer with the King." The eleven present were the lord chancellor, duke of Norfolk, lord privy seal, lord great chamberlain, earl of Hertford, high admiral, bishop of Winchester, the comptroller, the master of the horse, Secretary Wriothesley, and Secretary Sadler.[36] All of them are known to have been of the privy council at this time.

It is possible that this might be considered to be no more than a meeting of the privy council in the Star Chamber. Pollard believes that the council or the court of Star Chamber sat at Westminster in the Outer Star Chamber, while the privy council, which never sat in this outer chamber did, when it chose to do so, hold meetings in the Inner Star Chamber.[37] But this distinction, apparently results from nothing more than a conjecture in conflict with certain particulars specifically mentioned. From time to time there are records of the meeting of what is supposed to be the privy council in what the record designates as Star Chamber, without any qualification.[38] Somewhat later, in the Stuart period, at a time when the privy council met usually in the council chamber at Whitehall and less frequently in the council chamber at such palace or lodge as the king inhabited for the time being, there are none the less in the register numerous records of meetings of the privy council in the "Star Chamber" and

[36] Nicolas, vii. 272.

[37] "The idea that when the privy council sat on star chamber days in the star chamber it necessarily transacted star chamber business arose from ignorance of the fact that there were two star chambers, the inner, reserved for the privy council, and the outer allocated to the court": *E. H. R.*, xxxviii. 57, 58. For this allocation and distinction no supporting evidence is cited, and I know of none.

[38] In April 1559 there was a meeting of the privy council "At the Starre chamber," another in July 1565, one in June 1570, one in May 1580, one in October 1589, one in January 1599: *A. P. C.*, vii. 91, 228, 364, xii. 4, xviii. 195, xxx. 20.

also in the "Inner Star Chamber."[39] In 1625 a well-informed writer asserted that the privy council had and always had had a chamber in each house of the king, the council table being in that room, and that adjoining was a smaller room where the clerks of the council sat and wrote.[40] Hudson, writing of the manner in which the Lord Chancellor Ellesmere presided over the court of Star Chamber declares that in twenty years of service the chancellor never caused the lords who attended the court to be kept waiting: "but for the most part came into the inner chamber long before them, and bestowed his time in giving orders for matters of course to the clerks,

[39] In October and November 1617 there were six meetings of the privy council in the Star Chamber—with other meetings at Whitehall meanwhile, and several Star Chamber meetings in the following year: Privy Council Register, xxix, 10, 17, 22 October, 14, 21, 29 November 1617, 28, 30 January 1617-18, 6 May 1618. There was a meeting of sixteen of the privy council at the Star Chamber in July 1622: *ibid.*, xxxi, 11 July 1622. During May 1625 there were five similar meetings: *ibid.*, xxxiii, 11, 13, 18, 20, 25 May 1625. There was a meeting of the privy council attended by seven at the Star Chamber in February 1632: *ibid.*, xli, 14 February 1631-2. During 1633 and 1634 there were numerous meetings of the privy council in the Star Chamber, perhaps the larger number of all the council meetings held at this time: *ibid.*, xliii. In 1634 a privy council attended by fifteen "At the Starr Chamber" gave an order concerning the intrusion of footmen, coachmen, and others into the Star Chamber "while wee are sitting in the Court": *ibid.*, xliii, 24 January 1633-4. In May 1635 there were two privy council meetings in the Inner Star Chamber: *ibid.*, xlix, 4, 30 May 1635. During 1635 and 1636 privy council meetings in the Star Chamber continued to be numerous: *ibid.*, xlv. From December 1636 to May 1637 there were some privy council meetings in the Star Chamber and many in the Inner Star Chamber: *ibid.*, xlvii. In January 1638 there was a meeting of ten of the privy council at the Star Chamber, a meeting of three of them in the Inner Star Chamber, then a meeting of all of the ten in the Inner Star Chamber: *ibid.*, xlviii, 24 January 1637-8. During 1638 there were many other meetings of the privy council in the Star Chamber or in the Inner Star Chamber. It is probable that some of the meetings recorded in either of these places were of committees of the council, but on other occasions the record shows seven or nine or ten or eleven to have attended: *ibid.*, xlviii, 9 February 1637-8, xlix, 18, 20, 25 April, 4, 30 May, 1, 6, 8, 14 June, 12, 17, 19, 24, 26 October, 7, 9, 21, 23, 29 November 1638.

[40] State Papers, Domestic, Charles I, viii, 31 October 1625.

which was a great ease and expedition to the subject, and very beneficial to the clerks which attended him." [41]

In December 1541 there was a meeting of ten—all of them of the privy council—at Westminster. They agreed that two persons should be discharged of a recognizance by which they were bound to appear from day to day "before the Lorde Chawncellor and other the Cownsell in the Sterre Chawmber." And the record goes on to say that this was "Entrede by Adam the Clarke of the Sterre Chawmber." [42] In 1589 at a meeting of the privy council attended by four, a certain one having been sued "in the Starre Chamber" was required to continue his stay of certain proceedings "untill the matter be heard before the Lordes in the Starre Chamber this next Michelmas Terme." [43] Two years later, at a meeting of the privy council attended by ten at Greenwich, the claims of an eldest son were exhibited in a complaint. The matter being heard by "their Lordships," was deferred until the following Wednesday, when one of the justices and the attorney general were to attend "their Lordships at the Starr Chamber to give their advise what course might be taken for the better ordering and ending of the controversie." [44] In 1581, when Lord Vaux and others were sentenced for having harbored Campion, it was "In Camera Stellata coram Con° ibidem," where were present six members of the privy council, three judges, and three others.[45] In 1629 when Richard Chambers, merchant, was tried in the Star Chamber, sentence was imposed by two chief justices and twenty members of the privy council.[46] In 1635 in a sitting of the Star Chamber in

[41] Hudson, *Collectanea Juridica*, ii. 25, 26.
[42] Nicolas, vii. 277, 278.
[43] *A. P. C.*, xviii. 18, 19.
[44] *Ibid.*, xxi. 217.
[45] *Bridgewater MSS., H. M. C.*, 11th report, appendix, vii. 163.
[46] Rushworth, *Historical Collections*, i. 671, 672.

the case of Sir Anthony Pell *v.* Sir James Bagg et al. were present [47]

The chancellor of the exchequer	Lord Cottington
Chief Justice Finch	
Chief Justice Bramston	
Secretary Windebank	
Secretary Coke	
comptroller of the king's household	Sir Henry Vane
bishop of London	
Lord Barret	
captain of the king's guard	Lord Holland
groom of the stole	Lord Carlisle
lord chamberlain to the queen	Lord Dorset
lord marshal	Earl of Arundel and Surrey
lord great chamberlain	Lord Lindsey
duke of Lenox	
lord privy seal	
archbishop of York	
archbishop of Canterbury	
lord keeper	

Of them all were members of the privy council save the two chief justices and two others, and one of these latter—the bishop of London—was sworn of the privy council four months later.

So, it would appear that there is not generally any striking dissimilarity in respect of personnel between those present at council or court in Star Chamber and those attending what is called privy council, so far as descriptions or lists of persons present allow a comparison to be made. And the difference is still less when one remembers that it long continued—well through the

[47] *Ibid.*, ii. 303

seventeenth and eighteenth centuries—to be the custom to have at privy council meetings, and occasionally even at cabinet meetings, some who had never been sworn members. For a long time this was particularly the case with the solicitor general and the attorney general and one or other of the judges, when legal counsel was required. Always it continued to be so when the presence of some outsider was desired because he was with respect to particular business very capable or very well informed. To meetings of the court of Star Chamber, where the business was investigation or judicial procedure in respect of certain individuals, there might well be called a larger number of non-members—legal counsel and others—who could give particular information. Accordingly, in the reign of Elizabeth, when the privy council contained from eleven to at least twenty members, there could be at a court of Star Chamber—what with judges, attorneys, and others—as Hudson says, as many as thirty present.

Between Star Chamber and privy council the first and most striking distinction might seem to be that some of the judges were usually at a Star Chamber meeting while generally they were not at privy council. This was, indeed, long recognized as the principal difference between them. But here again the difference is not really very striking. Throughout the middle ages the king's judges were wont to assist in the work of his council; often it was clearly understood that they were members of the council—the differentiation of law courts from council in this respect being not yet complete; and even after 1540 judges were on occasion not merely members of the council or court in Star Chamber but members of what was called the privy council.

The judicial activities of the king's council were well recognized in the fourteenth and fifteenth centuries, parliament sometimes attempting to impose restrictions, again allowing to the council discretion about dealing

with matters terminable at common law.[48] In 1426, since many matters might be treated of before " the Counsaile " which touched the king's prerogative and freehold on the one hand and the rights of his subjects on the other, in which matters the council was not certainly competent to keep the right without advice from the king's justices learned in his prerogative and in his common law, it was ordained " that in alle suche matieres, his Juges be called thereto, and their advis, with their names also, to be entred of Recorde, what and howe thei determyne and advyse therynne." [49] In 1427, various petitions having been presented to parliament and not yet determined, parliament desired that they be delivered to the council along with the justices and others learned in the law.[50] Next year the chief justice of the king's bench, the chief justice of common pleas, the chief baron of the exchequer and all the other justices present with the king's council in the Star Chamber being asked their opinion how a certain offender should be dealt with, they advised that he be fined, which was done.[51]

In 1437 parliament asked of the king that certain petitions might be committed to the lords of the king's most wise council, who, calling to themselves, if there were need, the justices and others learned in the law should have power and authority from parliament to hear and determine the petitions, record to be made then in the parliament rolls.[52] In 1453 an act of parliament gave statutory authority for initiation by the council of proceedings with respect to breaches of the public peace, charges of riots, extortions, oppressions, and grievous offenses, the accused to be summoned before the king and

[48] Leadam, *Select Cases,* preface, pp. lix, lx, lxi.

[49] *Rotuli Parliamentorum,* v. 408.

[50] " Que les dites Petitions purront estre deliverez a les Seign̄rs de v̄re tres sage Conseill; les queux appelez a eux les Justices, & autres gentz aprisez en v̄re ley, si bosoigne y soit ": *R. P.,* iv. 334.

[51] Nicolas, iii. 313.

[52] *R. P.,* iv. 506.

his council. This, of course, was no more than formal recognition by parliament of a jurisdiction that council had long exercised as court and fountain of justice under the king.[53] The law was limited to seven years, but apparently continued in force. In 1487 another statute increased the number of offenses to be dealt with by the king's council, and gave statutory sanction to the issuing of writs of privy seal.[54] In 1601 Sir John Popham, lord chief justice, is listed as a member of the privy council.[55] The statute of 1487 formally associated justices of the king in the work of the council in Star Chamber. It is true that in 1493 a Star Chamber judgment, reciting the statute, declares that it appointed no judge except the chancellor, the treasurer, or the privy seal, and that the others were merely assistants.[56] In 1508 a case was judged by the archbishop of Canterbury, seven judges and serjeants at law, and another: they are referred to as the judges and later as the councillors.[57]

The council or Star Chamber was, in the opinion of Pollard, large as compared with the privy council because the council in Star Chamber contained many ordinary councillors or councillors at large, who in 1540 formed a majority of the entire number.[58] It is probable, however, that counsellors learned, ordinary counsellors, and coun-

[53] 31 Henry VI. c. 2: Leadam, preface, pp. lx, lxi.

[54] 3 Henry VII. c. 1: *ibid.*, preface, p. lxiv.

[55] British Museum, Add. MS. 11404, fo. 84.

[56] Leadam, preface, p. xxxv.

[57] "Coram istis dominis & Judicibus predictis . . . Super quo dictorum Judicum aduisamento dominus cancellarius & ceteri consiliarii tunc presentes decreuerant": Leadam, pp. 187, 188.

[58] *E. H. R.*, xxxviii, 43, 47 note: no satisfactory proof of this is given; it could be obtained only from some list of the members of the council, which does not exist, or from a number of attendance records, which do not occur. He says that nineteen are included in a list of those appointed to attend Anne of Cleves (see *Letters and Papers of Henry VIII*, xv. 5); but these nineteen contain at least two, namely, the chancellor of the augmentations and the comptroller of the household (see Nicolas, vii. 4) known to have been in what he would call the privy council.

sellors at large made no part of any definitely formed or recognized council body.[59] It is well known that throughout the middle ages and on through the sixteenth and even the seventeenth century the terms "consilium" and "concilium," "counsel" and "council" are used indiscriminately and interchangeably, so that at times there seems to be no essential difference in meaning, and that for a long while after the development of a difference may have begun it is often impossible in any particular case to decide whether there is any difference or just what is the difference if one is intended. When in 1538 a correspondent wrote to Cromwell about the Lady of Montreuil: "I made her partely a counseill, touching her sejournying here," there can be no doubt that advice was referred to.[60] But when in 1534 the archbishop of York told Katherine that the king "had often sent to her diverse of Your Counsaill"; and that a certain matter was sufficiently proved in law "as also som that were of her Counsaill do avowe," one cannot be so certain that in both cases a council or group of advisers is meant.[61]

In the sixteenth century and previously counsellors or councillors were retained expressly for law cases.[62] In course of time increasing distinction appeared between them and the more important counsellors of the king. In 1526 regulation was made for division of the work of the king's council: for matters in law twenty-seven were named, besides judges, barons of the exchequer, king's serjeants, and the king's attorney.[63] Next year certain ones sat in the Star Chamber though apparently not listed in the book of the Star Chamber as members of the council

[59] Elsewhere Pollard himself declares that the term "counsellor" seems in the sixteenth century to have denoted a member of the king's "civil service" rather than a member of a council: *E. H. R.*, xxxvii. 343.

[60] *S. P. Henry VIII*, I. ii. 583. [61] *Ibid.*, p. 419.

[62] Baldwin, pp. 450, 451.

[63] *Letters and Papers of Henry VIII*, IV. iii. 3096, 3097.

held there.[64] Much obscurity adheres to this subject, and it cannot, perhaps, at present be entirely resolved. It is possible, however, that the counsellors learned and the ordinary counsellors were not, as Pollard thinks, members of a larger council in Star Chamber as distinguished from a smaller privy council but law experts regularly or specially retained to assist the king and his council in law cases. In 1540 the bishop of Rochester was sworn "one of the Kinges Counsaill" and joined with another to hear causes determinable in Whitehall.[65] Neither of them appear among those who attended meetings of the privy council with the king or meetings of privy councillors at London during this period. About the same time, at a meeting of the privy council at More Park, the vice chamberlain and others were sent for and informed that it was the king's pleasure they should in the future not molest his person with any sort of suit: "but to put their sutes in writing and delivre the same to such of his g^{a}ces Ordinary Counsaill as was appoynted to attende upon his Majestyes person for those and like other purposes; which Counsaill shuld take such order in their said sutes from tyme to tyme as shall apperteyne." [66]

About the same time the privy council record says that Master William Peter, doctor of law, was sworn "one of the Kinges Counsaill." And a little later: "Doctor Peter one of the Kinges Ordinary Counsaill was call before the Counsaillors" to hear an examination.[67] Later on Robert Southwell, Esquire and Doctor Peter are spoken of as "beyng of the Kinges Ordinary Counsail." [68] On another occasion "two of the Kinges ordinary counsaillo^{rs}" made a report to the privy council.[69] In October 1540 Richard Pate, ambassador from Henry VIII to

[64] Lansdowne MS. 160, art. 92: Scofield, p. 34.
[65] Nicolas, vii. 49.
[66] *Ibid.*, pp. 51, 52.
[67] *Ibid.*, pp. 51, 60.
[68] *Ibid.*, p. 74.
[69] *Ibid.*, p. 77.

Charles V, wrote to the king that one of the officials in the Low Countries had said: "Monsieur Embasadour, truith it is, that I am of cownsel, but of such affers as apperteynith to the law and thordinances of this cowntrey, and not of the Privie Cownsel, where as other thalliance of Princeis, or thinges of like moment, ar devised, contrived, or may be promoted." [70] It was suggested to him that he write to some of the king's "Counseil". Henry desiring information to be conveyed, but indirectly, wrote back: "Ye shall saye that ye have . . . writen to a great frende of yours here, oone of our Counseil, (thoughe not of our Pryvie Counseil) but a man of gravitie and learnyng, and oone that hathe greate intelligence with our nere Counsailours, and suche as be aboute Us." [71] In 1541 Sir William Essex is called "one of the Kinges highnes Ordinary Counsail." [72] In July of that year Sir Robert Southwell was among those members of the privy council at London who signed letters to the privy council with the king, though he may not have been a member of the privy council the preceding October.[73] But neither Peter nor Essex appear among those who held meetings of the privy council. It is probable that they assisted in privy council business as persons learned in the law; that they were "of the king's counsel" in the sense that they were legal advisers to the crown; and that they were known as "ordinary counsellors" because they belonged to a regular staff, and had regular jurisdiction by the office to which they had been appointed and not by special deputation for some one occasion. "Ordinary counsel" may have been no more than a term temporarily employed in Tudor times. At all events it presently disappears altogether.

In 1625, when Secretary Coke drew up a lengthy memorandum of the procedure of the privy council he said

[70] *S. P., Henry VIII,* viii. 452, 453. [71] *Ibid.,* p. 456.
[72] Nicolas, vii. 134. [73] *S. P. Henry VIII,* I. ii. 662, 664.

that the more important private business or causes before the council, which had been offered to the board by petition, were either ended at the board by debate and information of learned counsel, or referred to some of the lords of the council or to the king's counsel at law, or to such others as might be appointed for further hearing or examination, and that according to their report the privy council resolved on its orders.[74] When during the course of the sixteenth century the work of the councillors was to some extent differentiated, so that when they met as council or privy council they devoted themselves mostly to administration and matters of state, while in the court of Star Chamber they were occupied mainly with matters judicial, it was to Star Chamber that judges and learned counsel were mostly attached. In December 1589 the lord chief baron, giving reasons why the cause against him should be heard in the court of Star Chamber rather than in the privy council, said: "My Lords and others of her Ma^tyes counsell for the most parte have not study or Judgment of lawe and but small experyence of lawe to dyscusse what ys an offence of lawe and what not, unles they be assysted by the Judges and the Quenes lerned counsell as in the Starr Chamber they be and here not." [75] Later on Hudson wrote that one mark of the superiority of the lord chancellor was that he might at his discretion command the attendance of the judges in the Star Chamber: "for although the chief judges do most usually attend this court (being an honour unto them), yet may the lord chancellor command any other judge at his pleasure to sit there; and that is usual, when that the cause in question is either in respect of the vicinity, circuit, trial had before him, or some reference made unto him, better known to some judge than to any other." [76]

[74] S. P. D., Charles I, viii, October 1625.

[75] Lansdowne MS. 59, art. 64: Scofield, p. 43.

[76] *Collectanea Juridica*, ii. 28.

The body of the king's principal advisers and assistants, admitted to their membership by oath, was during the sixteenth century, as it had been previously and as it was later on during the seventeenth century, a group that varied in membership at different times. Concerning it there is very little specific information under Henry VII, but some meetings of his "council" were attended by more than forty. Under Henry VIII at times it was a body of twenty or more. Under Edward VI and under Mary it contained some thirty and presently forty. Under Elizabeth it appears to have diminished from twenty to eleven, though these figures come principally from attendance lists and may not give all the members of the council. The author has discovered no certain evidence that there was during this period a recognized distinction between a larger king's council or court of Star Chamber and a smaller privy council, or that a privy council developed out of a council in Star Chamber about 1540. The term *privy council* was throughout this time much less frequently used than *council,* and its use does increase as the century goes on; but many instances of it occur before 1540 as there are many more of the privy council being called *council* after that time. Nor has the author found sure indication that during Tudor times the Star Chamber was essentially a larger body than the privy council, and that the Stuarts inaugurated a novel and unwise policy when they made privy council and Star Chamber to be two aspects of the same thing, causing both of them to be essentially of the same personnel. It would appear that during the time of James I, as previously, the theory was that great magnates, being of the king's great council, might, if they chose, sit in his council in Star Chamber; but however well grounded this idea was in the law and old custom, there seems actually to have been little of it. On the other hand, in the law work of both privy council and Star

Chamber the assistance of certain justices and "counsel" learned in the law was freely used, so that at times a chief justice was even sworn a regular member of the privy council. Since the judicial work of the king's councillors was done mostly in the court of Star Chamber it was there that the meetings were most reinforced by judges and legal assistants.

As time went on there was increasing differentiation between privy council and Star Chamber, but probably this was through specialization of activities and not distinction in personnel. Just as in the thirteenth century the king's *curia* had attended to legal and administrative work and the same councillors had devoted themselves primarily to financial work at the exchequer, so in the sixteenth century as in the seventeenth, it would appear that the king's councillors attended more and more to affairs of administration and state in his council or privy council and, with help, if they desired it, from the judges, to judicial work in his council or court of Star Chamber.

With respect to business, especially, a distinction often was made. In 1494 a correspondent of one of the Pastons wrote: "ther hath be so gret cownsell for the Kynges maters, that my Lord Chawnsler kept not the Ster Chawmber thys viij days, but one day at London." [77] In 1570 at a meeting of the privy council at Hampton Court a letter was dispatched to a certain one who had complained against another. Both had been summoned and heard, and the complainant had been ordered to put his charge in writing and send it to the council. "And percevinge now not only that he hath not observed the same, but contrary thereunto meane to prosecute the cause in Sterre Chamber, they cannot but finde this maner of dealing very strainge, and thinke that he hath therein much forgotten him self; lyke as they meane not to suffer thauctoritie of this Table to be so muche prejudiced as to

[77] *Paston Letters* (ed. James Gairdner, London, 1872-5), vi. 152.

indure that any matter of complaint brought and delt by them shuld by the complainant him self be removed to any other Coourte before the same be heard by their Lordships and ordered." [78] In 1590, in a privy council at Windsor, a complaint having been received, it was decided that the complaint "is already depending before their Lordships in the Starrh Camber, where yt is to receave tryall." [79] In 1597 a certain one petitioned: "that I might be called before the Council table to answer objections against me, and according to the judgment of the Council, receive any further punishment . . . rather than bring me into a public audience in the Star Chamber." [80] It may be, however, that in none of these instances is anything more than difference of function or procedure denoted. Hudson, writing in the time of James I, recalled a cause in which he had been "of counsel" where the bill prayed process against the defendant to appear before the king and his privy council, to which was put in a demurrer. This was sustained against the bill "as not being the proper return of the process in this court." [81] Apparently, there was considerable feeling that privy council and Star Chamber were practically the same body, though technically this was not allowed.

Many indications point to substantial identity of the two bodies. In 1504 an act against unlawful retainers provided that information might be given "before the Chaunceller of Englond or the keper of the Kynges gret seale in the Sterre Chamber, or before the Kyng in his Benche, or before the Kyng and his Counseill attendyng uppon his most roiall person wheresoever he be, so that there be iij of the same Counseill at the lest." [82] In 1541 a

[78] *A. P. C.*, vii. 404, 405.

[79] *Ibid.*, xx. 17.

[80] Sir John Smythe to Lord Burghley: *Calendar S. P. Dom., 1595-1597*, pp. 422, 423.

[81] *Collectanea Juridica* ii. 24.

[82] 19 Henry VII. c. 14; *S. R.*, ii. 659. It may be noted that those who sustain the thesis of a council—not the privy council—identical with Star Chamber before 10 August 1540 and a privy council distinct from

dispute depending before "the Kinges highnes Counsaill in the Starre Chambre" concerning the boundaries of one of the king's parks, "certain of the Lordes and others of the P[l]vey Counsaill" made a perambulation and promised a fair settlement. Then, at a meeting of the privy council, for more expeditious settlement, "the lordes before named and others of the Counsaill" gave a commission to certain ones—not of the privy council—to make an examination, the commissioners to report "to the Counsaill in the Starre Chamber" so that final determination thereon might be made.[83] A little later eleven privy councillors meeting at Westminster, "the Cownsell" gave an order upon a complaint.[84]

The terms employed generally for the body of the king's advisers and assistants were *council* or *privy council*, but occasionally it was designated *council of state*, a term more frequently used by foreigners when alluding to it. In 1545 a correspondent writing from the Netherlands said that what Englishmen called privy council was in the Low Countries known as council of state (le Conseill d'Estat).[85] In 1552 a commission was granted "to certeine Counselors to heare and determine the sutes preferred either to the Kinge or to his P. C.": the keeper of the privy seal and nine others being thus appointed "our Speciall Commissioners" to hear, examine and order suits and requests; this because of the great number of suits and requests and the importunity of suitors. "The Counsellors of our Privie Councell" were so overburdened that they could not attend to the great and weighty "causes of our estate royall" as should be. The king

council and Star Chamber after that time, nevertheless find in the council attendant upon the king the privy council which they suppose to have begun then.

[83] Nicolas, vii. 223, 224.

[84] *Ibid.*, pp. 270, 271.

[85] Nicholas Wotton to the council, 27 April 1545: *Letters and Papers of Henry VIII*, XX. i. 284.

mindful of this, and desiring that suitors of all sorts "makinge their sutes unto us, our Counsell of estate" might have speedy answers, appointed the commission.[86] It seems clear that nothing more is denoted than the appointment of a committee or commission to relieve what is first called the privy council and then the council of state. During the reign of Elizabeth Lord Burghley, in a speech in Star Chamber declared: [87]

> That the same Court was the Councell of State and the Clerke thereof the onely Clerke of the Councell of State of this Realme and the Clerke of the Councell of England and that there was noe other Clerke of the Queenes Councell of state but onely the Clerke of this Court, And that the others were Clerkes of the Privy Councell attendant upon her Ma^tie^s Royall person and those other Clerkes were to attend at the Councell Table.

In the correspondence of the foreign ambassadors in England the privy council is frequently referred to as the council of state.

In 1540 there was the beginning of a record, kept by a clerk appointed therefor, of the proceedings of the councillors with the king, the councillors calling themselves privy council or more frequently council. Probably the importance of this event lies not in the establishment of a privy council distinct from a larger council in Star Chamber, but in the beginning, perhaps, of a record of the proceedings of the privy councillors who were with the king.[88] In earlier times the principal work of the

[86] *Egerton Papers* (Camden Society, xii), p. 24. Pollard cites this passage to show that there was a distinction between the privy council and the council of estate as far back as the time of Edward VI: *E. H. R.*, xxxvii. 534, note.

[87] Hargrave MS. 216: Scofield, p. 62.

[88] Emphasis upon this and a historical account of the title of the statute "*de camera stellata*" so-called, are, the author thinks, two principal contributions contained in the articles of Professor Pollard which have been so much cited in this and the previous chapter.

king's council had been judicial, and the record of the council's activities both as court and administrative body had been kept by clerks at Westminster. This long continued to be the case. Meanwhile affairs of state—diplomacy, war, peace, deliberation and administration in respect of the weighty affairs of the kingdom, most of it primarily non-judicial—seemed to be more and more important. Of necessity they were largely dealt with, whether at Westminster or elsewhere, by a small group of the principal councillors, and it is probable that they were usually dealt with by the king and the councillors with him. In 1540 the councillors with the king, whoever they might be at any particular time, began to keep a record of their own transactions, and presently also to some extent of those things which were done by councillors elsewhere dealing with affairs of state. By the time of James I the keeping of this record had passed into the hands of the councillors sitting at Westminster or at Whitehall.

Meanwhile more and more were the councillors sitting on business of administration and affairs of state thought of as the council or the privy council, while the councillors sitting upon judicial work at Westminster were less and less thought of as the council in Star Chamber and more and more as a court. In 1563 a statute referred to "the Courte at Westm̄ com̄only called the Starre Chamber." [89] In 1596 a warrant of the privy council mentioned "her Majesty's Highe Courte of Starr Chamber." [90]

Doubtless there was some differentiation at times in respect of personnel—those attending to business of one kind and those dealing with the other, in so far that certain of the councillors reinforced by judges, learned "counsel" and others acted for the most part as a court in the Star Chamber while other councillors attended for the most part to affairs of state; but there seems to have

[89] 5 Elizabeth c. 9: *S. R.*, IV. i. 438. [90] *A. P. C.*, xxv. 507.

been no distinct separation of the members into two bodies. It would appear that members did one kind of work or both as they were desired or as they saw fit; that differentiation was essentially with respect to kind of business and place where the business was done. Even in these regards there never was any certain distinction: as late as the times of Charles I councillors sitting in privy council held their meetings in the Star Chamber, and at other times in other places they acted as a court.[91]

Whatever the number of councillors or their manner of working, during this time, as later, often a small group tended to get control of most of the business, some of the members seldom being present, others coming from time to time, most of the meetings being attended by six or seven or ten or twelve. In the time of James I and Charles I, when the privy council contained from twenty-five to forty-five members, a group of ten or twelve actually attended most of the meetings and had control of business—a group not much larger than the committee of the council for foreign affairs, which was the earlier form of the cabinet council. According to a memorandum

[91] Pollard thinks that in the time of Henry VII there was no essential distinction between the council attendant and the council in Star Chamber—with which I agree. He says also that Henry VIII during his earlier years was not assiduous in council work; that Wolsey presided over the council in Star Chamber with great effect; that after his fall that council never recovered its position; that when in middle life Henry devoted himself to government it was to matters of higher politics rather than administration of law and order. *E. H. R.*, xxxvii. 531, 532, 533. This account may contain much truth, but there can be no certainty about such of it as concerns the council, since for this period records of conciliar meetings of whatever kind are almost entirely wanting, and no substantial body of supporting and explanatory evidence has yet been adduced. As an instance of hypothesis possibly true but entirely unwarranted by the evidence brought forward: "Politics were clearly absorbing all the council's time, and it is not surprising to find in the king's payments for the first quarter of 1538 the first instalment of the salary of a clerk of a privy council whose business should be distinguished from that of star chamber." *Ibid.*, xxxviii. 46. The source quoted (*Letters and Papers*, XIII. ii. 528) merely mentions a salary for a clerk of the privy council.

of Sir Julius Caesar in 1625, the lords of the council not lodging at the court and those not ordinary great officers of the household were not accustomed to come to meetings of the council, if not specially summoned thereto by command from the lord president or one of the secretaries of state.[92] In 1540 and 1541 meetings of the council whether with the king or at London were usually small. In 1554 an account by the Venetian ambassador declared that the principal lords had their rooms in the palace where Queen Mary resided, they sleeping there and never leaving her alone, in accordance with the ancient custom; that in the morning they met, even though it were only the leaders, and it was understood that a council was assembled though only seven or eight were present.[93] Three years later another Venetian reported that to the royal council (consiglio regio) were ordinarily admitted the three or four principal officials of the kingdom—chancellor, treasurer, privy seal, admiral—besides the principal officers of the household, as the sovereign saw fit, also others, lay or cleric when the crown willed it.[94] Under Elizabeth the council came to contain eleven or twelve, with most of the business ordinarily transacted by half of the members.

[92] S. P. D., Charles I, viii, 31 October 1625

[93] Giacomo Soranzo, Relazione d'Inghilterra (1554): Albèri, I. iii. 76, 77.

[94] "È stata presso loro introdotta una forma di consiglio, simile a quello dei bassà, dei più principali confidenti ministri, i quali, con poca differenza dall' uso dei bassà, congregandosi insieme e seguendo in ogni luogo la persona del principe, avendo per questo effetto la tavola e la stanza in corte . . . In questa sorte di consiglio, chiamato il consiglio regio, sogliono essere ammessi ordinariamente li tre o quattro principali ufficiali del regno, il cancelliere, il tesoriere, il custode del privato sigillo, e l' ammiraglio, oltre li principali ufficiali della corte e casa del re, tutti per l' ordinario signori e persone nobili, e delle principali, quantunque il re soglia, non obbligandosi mai ad un certo numero, ammetere anco degli altri senza riguardo di nobilità o ignobilità di grado, si ecclesiastici che secolari, come più al gusto suo appetisce": Giovanni Micheli, Relazione d'Inghilterra (1557): Albèri, I. ii. 316, 317.

CHAPTER IV

ORGANIZATION OF THE PRIVY COUNCIL 1603–1645

IN THE earlier part of the seventeenth century the government of England was in normal times vested mostly in the king. He appointed the principal officials, dealt with foreign affairs and with questions of war and peace, he was possessed of the executive and administrative functions, and had much control of the legislative and judicial functions or else large share in such work. The historian has had much to say about parliament in the sixteenth and seventeenth centuries, but, so far as ordinary and non-revolutionary years are concerned, it must always be remembered that in writing of parliament for this period for the most part he recounts the history of what was later on to be the important part of the government of England rather than what had supremacy then. It was not until the Puritan Civil Wars and the period of the Interregnum (1642-60) that the king's power was seriously shaken. Afterwards it was largely restored and in most respects it had supremacy again. Then it was not seriously curtailed until the Revolution of 1688. For a hundred years after that time, while it constantly diminished, and in the hands of uninterested foreigners at times sank very low, it was at various intervals the principal effective power in the state, and it long continued to be far more potent than some have seen well to believe.

During all this time the royal power—as is necessary with a government ruling any considerable number of people—was actually wielded by the king's subordinates

and assistants. The more important of them were the king's counsellors concerning matters upon which he sought for advice, his helpers in executing what was resolved upon, and generally the principal agents and factors in administration. Collectively they were well recognized as his privy council. Government was, indeed, mostly in the power and prerogative of the king. In the handling of his more secret and important affairs there was and long had been—a tendency for the monarch to deal with a small number of his councillors only. None the less it was generally understood that the privy council ruled England under the king, and that its members formed one of the most effective bodies anywhere in the world.

"These Lords of the Council behave like so many kings," said the Venetian ambassador Scaramelli just before the beginning of the reign of James I.[1] "Wee doe repose so greate Confidence in you, with a representative Power in our absence," declared James himself a little later, departing on a journey for recreation and rest.[2] In 1607 Nicoló Molin reported to the Venetian authorities that in the privy council of England were handled innumerable matters, not only affairs of state but business pertaining to individuals, finance and punishments, so that there was no one who did not sooner or later have to deal with this body, whence all strove to win the favor and the protection of some of the council.[3] In 1613 the Prince Palatine, then in England, feasted all the members of the privy council.[4] That year Gondomar wrote to his master that the privy council was the only such body in England; in the privy council all matters were dealt with. In view

[1] *Calendar of State Papers, Venetian, 1592-1603*, p. 567.

[2] State Papers Domestic, James I, xii, 9 January 1604-5.

[3] N. Barozzi and G. Berchet, *Relazioni degli Stati Europei Lette al Senato dagli Ambasciatori Veneti nel Secolo Decimosettimo* (1856-78), IV, i. 58.

[4] S. P. D., James I, lxxii, 4 February 1612-13.

of the different practice then prevailing in Spain this was, perhaps, the highest tribute to its potency which he could have paid.[5] Somewhat later he referred to it as the council of state.[6] "I yesterday attended the Privy Council," wrote a Venetian in 1618, "where I found the principal ministers and Dignitaries of the Kingdom." [7]

"In all monarchies," says Raleigh, writing some time before 1619, "the senate or privy-council is or ought to be composed of persons of great dignity, or men of approved wisdom or understanding." [8] "It doth appear," he says elsewhere, "that in all commonwealths, be they monarchies, aristocracies, or popular states, the council-privy is most necessary and often used." [9] In 1623 eight lords of the council were sent from London to Southampton to meet the infanta of Spain, whose arrival was then expected.[10] A little later, when the negotiations for a marriage between Prince Charles and Henriette Marie were lagging, "the french wold haue the .K. and counsaile all sworne to obserue all articles." [11]

At the beginning of the reign of Charles I, according to Sir John Coke, secretary of state: "The Councell Table is the soueraigne, & superintendent court under His Ma^{tyes} person, and is to dispute de Omni ente, et ciucumque

[5] Don Diego Sarmiento to the king of Spain, 6 September 1613 (N. S.): Spanish Transcripts (Public Record Office, London), series II, iii. Englishmen themselves at this time were aware that in some other countries, such as France and Spain, government under the king was carried on by several councils. Sir Walter Raleigh noted, not quite correctly, that there were three central councils in France and seven in Spain: *The Cabinet-Council, Works* (Oxford, 1829), viii. 45.

[6] "Consejo de Estado": Sarmiento to Señor Cardenal Melino, II. v. 120.

[7] Letter of Piero Contarini, 25 January 1618 (N. S.): Venetian Transcripts (Public Record Office, London), x. 57.

[8] *Works*, viii. 146. [9] *Ibid.*, p. 45.

[10] The account for their expenses totaled £218. 14 s. 2 d: S. P. D., James I, cxlvi, 6 June 1623.

[11] John Chamberlain to Sir Dudley Carleton, 26 February 1624-5: S. P. D., James I, clxxxiv.

Rei proposito respondere, watching ouer the boddie of the state, and the partes, and is a maruellous satisfaction to People, that haue so open accesse and so honorable hearing in all causes of grieuance, or reliefe, at so high a seate of Justice, and so neere the sacred person of the King." [12] A little later that year Sir Julius Caesar, master of the rolls and long in the royal service, in a disquisition on the council, wrote: "ffor the gouernement of that bodie politique, every good kinge hath all wayes used at his entrance into his kingdome, to select out of his greate bodie some fewe servants (more or fewer at his owne pleasure) to be privie Counsell[rs] unto him in a body of a settled private Counsell, to be as watchmen for the p[r]servac̄on of his Royall person, Alsoe, for the increase & advancement of his Revenues, dignities, Prehemineences, & authorities (to w[ch] they are specially sworne) & for the p[r]servac̄on of that great bodie of his wholle kingdome from all oppression from a broade, & from all confusion at home." [13] "The greatest councill of state," the lord keeper is said to have called it two years later.[14] In 1628 the Venetian ambassador complained of an insult. The King immediately sent three members of the privy council to apologise and to assure the ambassador once more of his regard for the republic and for himself.[15] Foreigners continued to think of it as the English council of state.[16]

[12] "The manner & proceedings of the Councell Table": S. P. D., Charles I, viii, undated, assigned to October 1625.

[13] "Concerninge the private Counsell of the most high and mighty kinge of greate britaine ffrance, Scotland, Ireland": S. P. D., Charles I, viii, 31 October 1625.

[14] *Autobiography of Sir John Bramston, Written about 1688* (Camden Society, xxxii), p. 42.

[15] Despatch of Amerigo Salvetti to the grand duke of Tuscany, 3 April 1628 (N. S.): *H. M. C.*, 11th report, appendix, i. 144.

[16] "Don Francisco de Cottinton del Consejo de Estado de su Magestad de la Gran Bretaña": *Clarendon State Papers* (Oxford, 1767-86), i. 49.

When about 1646 Clarendon was beginning to write of the causes of the civil wars that had brought so much of the old order to disaster, he asserted that monarchy in England never could be sustained save "by a prudent and steady Council attending upon the virtue and vivacity of the king." [17] The privy council, said a legal writer in 1649 is a "a company of choice men according to the King's bent, unto whom the consideration of all the weighty affairs of the Kingdom is committed." [18] A generation later the compiler of a year book, famous in its day, was wont to describe the privy council before he gave account of parliament, declaring that the council was the most important organ in the governance of the state, the *Primum Mobile*, the watchtower of the nation.[19] And long after his successor continued year by year to describe it in like manner.[20]

During the first half of the seventeenth century, compared with what it afterwards became, the privy council of England was a body small and select. It is not always easy to ascertain exactly the number of members at a particular time. For some years the all-important records, the registers of the council, are lost; in some cases the registers contain no satisfactory lists of the members; and in other cases where lists are prefixed to the body of the register, a particular list will refer to a considerable number of months, so that the names of some members are inserted as new ones were added, while the names of others are struck through as they were dismissed or dropped out—but it is not certain that this was

[17] Clarendon, *History of the Rebellion* (Oxford, 1888), i. 261.

[18] Nathaniel Bacon, *An Historical and Political Discourse of the Laws and Government of England*, etc. (London, 1739), p. 201.

[19] Edward Chamberlayne, *Angliæ Notitia: or the Present State of England* (London, 1679), part ii. pp. 1, 2.

[20] John Chamberlayne, *Magnæ Britanniæ Notitia*, etc. (London, 1755), p. 83: "The *Primum Mobile* of the Civil Government of *England*, from whence all the inferior Orbs derive their Motion."

always done with precision and at once. Generally speaking, it may be said that the number increased from thirteen in 1601 [21] to forty-two in 1630,[22] from which number it declined to thirty-five in 1640,[23] and that in the confusion of the ensuing distracted years the membership was rapidly changed at the same time that the council fell into abeyance

In the later years of Elizabeth the council had been small. For 1599 there is a list of eleven members; in 1601 it had at least thirteen.[24] In the next reign it grew rapidly, though for the first years detailed information is scanty. A fortnight after Elizabeth's death twenty-six names were appended to a council proclamation.[25] At the first meeting of the council under James, 25 April 1603, eleven assembled in the palace at Whitehall, by the king's command, to consider the right of certain others to be privy councillors. Two more were at once admitted; and a few days after in the king's presence at the court at Theobalds was held a council of fifteen.[26] A little later it was resolved that the council should consist of not more than twenty-four.[27] In 1607 the Venetian ambassador reported that the council contained twenty-five, of whom four were Scots, though the number was indeterminate depending entirely upon the will of the king; and a little later Gondomar reported that the membership was twenty-four, of whom four were Scots.[28]

During the reign of James the numbers were, so far as the author has been able to ascertain them, approximately the following, respectively at the various times:

[21] Additional MS., 11402, fo. 84.
[22] Privy Council Register, xl. 1, 2.
[23] *Ibid.*, liii. 5.
[24] Add. MS. 11402, ff. 72, 84.
[25] S. P. D., James I, lxxiii, 8 April 1603.
[26] Add. MS. 11402, fos. 87, 88.
[27] S. P. D., James I, i, 10 May 1603.
[28] Nicoló Molin, *Relazioni degli Stati Europei*, IV. i. 57; letter to the king of Spain, 6 September 1613 (N. S.): Spanish Transcripts II. iii.

1605	16-20 [29]
1610	19-20 [30]
1613	22 [31]
1615	22 [32]
1617	28-32 [33]
1618	27 [34]
1621	28-33 [35]
1623	35 [36]

"The counsaile increases still," wrote John Camberlain, the well-informed correspondent of Sir Dudley Carleton, in 1622; [37] but it may be said that an undated list of councillors, assigned to 1624, gives the number as twenty.[38]

The privy council contained the principal officers of state and of the king's household and such others as convenience, service, or pleasure caused him to add. In 1605 the members of the privy council appear to have been

The archbishop of Canterbury
lord chancellor
lord high treasurer
duke of Lenox
lord high admiral
lord chamberlain
earl of Northumberland
earl of Shrewsbury
master of the horse
earl of Northampton
earl of Salisbury

[29] According to S.P.D., James I, xiii, April 1605, the number was apparently sixteen: but a copy of an alleged list from the beginning of the lost register for this period embodied in Add. MS. 11402. fo. 99 gives twenty-five, of whom five are marked "mort".

[30] S.P.D., James I, lviii, 27 December 1610.

[31] P.C.R., xxvii. 1.

[32] *Ibid.*, xxviii. 1 A.

[33] *Ibid.*, xxix. 1.

[34] S.P.D., James I, civ. 82.

[35] P.C.R., xxxi. 5.

[36] *Ibid.*, xxxii. 1, 2.

[37] S.P.D., James I, cxxxii, 1 July 1622.

[38] *Ibid.*, clxxx. 105.

earl of Exeter
earl of Mar
Lord Zouche
Lord Knolles
Lord Wotton
Lord Stanhope
lord of Berwick
Lord Bruce
Sir John Herbert

and with these members five more had been associated until their deaths:

The earl of Cumberland
earl of Devonshire
lord secretary of Scotland
lord chief justice
Sir John Fortescue [39]

In 1613 the privy council consisted of [40]

The archbishop of Canterbury	
lord chancellor	Lord Ellesmere
keeper of the privy seal	earl of Northampton
duke of Lenox	
lord high admiral	earl of Nottingham
lord chamberlain of the king's household	earl of Suffolk
earl of Shrewsbury	
master of the horse	earl of Worcester
earl of Pembroke	
earl of Exeter	
earl or Mar	
lord chancellor of Scotland	earl of Drumfermline
Viscount Rochester	
Viscount Fenton	
Lord Zouche	
treasurer of the king's household	Lord Knolles

[39] Add. MS. 11402, fo. 99.

[40] P. C. R., xxvii. 1.

comptroller of the king's household	Lord Wotton
vice chamberlain and treasurer of the king's chamber	Lord Stanhope
secretary of state	Sir Ralph Winwood
secretary of state	Sir John Herbert
chancellor and under-treasurer of the king's exchequer	Sir Julius Caesar
chancellor of the duchy of Lancaster	Sir Thomas Parry

In 1614 "S^{r} thomas Lake [was sworn] of the priuie counsell wthout any place or other title." [41]

In 1625 Sir Julius Caesar wrote that it had been the custom for each king of England to retain most of the privy councillors of his predecessor, these councillors taking the oath anew to the new monarch, and he afterwards adding to his council as he pleased.[42] So it happened on the accession of Charles I. On Sunday, 27 March 1625, about noon, James I died at Theobalds. The lords of the privy council and others presently assembled, "most of all the LL^{s} of the priuy Councell being there present." The prince had retired into his chamber, so the lord president and the lord marshal were sent to him by the body of the council to inform him of his father's decease, and to ask whether he would care to admit them into his presence. He, in his grief, wished them to forbear until the next morning. Then they held a council and penned and signed a proclamation by which Charles was at the court gate of Theobalds proclaimed king of England. The proclamation was afterwards entered in the register of the council, the signatures appended numbering forty. This done the

[41] John Chamberlain to Sir Dudley Carleton: S. P. D., James I, lxxvi, 31 March 1614.

[42] S. P. D., Charles I, viii, 31 October 1625.

members of the council went to Whitehall and in the council chamber there signed another proclamation. About five o'clock that afternoon they went into London proclaiming King Charles. The new sovereign came that night to St. James. Next morning he signified his pleasure that the lord keeper, the lord treasurer, the lord president, the lord chamberlain, the treasurer of the household, and the comptroller should attend him. All came and rendered up their offices and places to the king. Charles then restored them and willed that the officers execute their places as they had done for his father, and he gave a commission for administering the oath to all the members of the privy council in existence until the death of his father.

To the privy councillors of the late king assembled in the council chamber Lord Conway and Sir Albertus Morton, secretaries of state at the end of James's reign, now brought from the new monarch command that the lord keeper should be sworn of the new privy council, that he should then give the oath of councillor to the lord president of the late council, who then becoming lord president of the privy council of Charles I, " should sweare all the rest of the late King his ffathers priuy Councell to bee of his Ma^{ts} priuy Councell." The remaining members of the former council who were at hand thus became members of the council of Charles I, which as a result of this ceremony contained twenty persons. The council of James I had generally been larger than this. The proclaiming of Charles as king, the day before had been signed by forty: " all the Lords & priuy Councello^{rs} that were present." [43] After the first meeting of the new council " the whole priuy Councell attended the King at St James, and there the Lord Keeper in the name of all the rest presented the humble thankes of all the Councello

[43] P. C. R., xxxiii. 1, 3.

that it had pleased his Matie to have Affiance in those that ha[d] beene Councello^rs to his ffather, and to receaue them all to bee of his priuy Councell." [44]

In 1625 Sir John Coke, secretary of state, noted that the number of councillors was never fixed, but more or less according to the condition of the times; that commonly it never exceeded twenty-four nor was it ever less than ten. The nucleus, he said, should always be the principal officers of the king:

The archbishop of Canterbury
lord chancellor
lord treasurer
lord privy seal
lord steward
lord admiral
lord chamberlain
treasurer of the household
comptroller of the household
secretaries of state
chancellor of the exchequer
chancellor of the duchy of Lancaster

who "are by place and office soe interested in the businesses of state as they are of the Councell." They should sit "togeather wth such others as the King shall take." [45]

In addition to those admitted when Charles's council was first constituted others were sworn during the following months, so that by the end of the year the privy council contained thirty-one members: [46]

[44] *Ibid.*, xxxiii, 28 March 1625. The entire account given has been pieced together from two slightly different ones: P. C. R., xxxiii. 1; notes by the secretary of state, Conway, S. P. D., Charles I, dxxi. 2, written about March 1625.

[45] S. P. D., Charles I, viii, assigned to October 1625.

[46] P. C. R., xxxiii. 1, also 29 March, 26 April, 5 May, 31 July, 30 October, 12 December 1625. In October Sir Thomas Coventry was made lord keeper, the seal being taken from the bishop of Lincoln, who may not, however, have been dismissed from the council.

The archbishop of Canterbury	
lord keeper of the great seal	Sir Thomas Coventry
lord treasurer	earl of Marlborough
lord president	earl of Manchester
lord keeper of the privy seal	earl of Worcester
lord high admiral	duke of Buckingham
earl marshal	earl of Arundel and Surrey
lord high chamberlain of the king's household	earl of Pembroke
earl of Montgomery	
earl of Carlisle	
earl of Holland	
master of the ordnance	earl of Totnes
lord chancellor of Scotland	Sir George Hay
earl of Mar	
earl of Kellie	
earl of Melrose	
Lord Carew	
Viscount Wallingford	
Viscount Grandison	
Viscount Faulkland	lord deputy of Ireland
bishop of Winchester	
Lord Conway	secretary of state
Lord Brooke	
treasurer of the king's household	Sir Thomas Edmonds
comptroller of the king's household	Sir John Suckling
vice chamberlain of the king's household	Sir Dudley Carleton
master of the wards	Sir Robert Naunton
Sir John Coke	secretary of state

Sir Richard Weston	chancellor of the exchequer
Sir Julius Caesar	master of the rolls
Sir Humphrey May	chancellor of the duchy

During the reign of Charles I the numbers in the privy council at various times were approximately:

1625	31 [47]
1626	30 [48]
1628	31-37 [49]
	-40 [50]
1629	40 [51]
1630	42 [52]
1631	34-40 [53]
1632	36 [54]
1633	36 [55]
1634	36 [56]
1635	33 [57]
1636	32 [58]
1638	33 [59]
1639	33 [60]
1639 (October)	34 [61]
1640	31-35 [62]

In the troublous years that followed there were rapid changes, members leaving or being dismissed, while nineteen new members were sworn between January 1641 and August 1645.[63] In 1628 the Venetian ambassador had

[47] P. C. R., xxxiii. 1.
[48] *Ibid.*, xxxiv. fos. iii, 153.
[49] *Ibid.*, xxxviii. 1A, 167.
[50] *Ibid.*, xxxix. 3, 4.
[51] S. P. D., Charles I, cxlvi, 12 July 1629.
[52] P. C. R., xl. 1, 2.
[53] Rymer, *Fœdera*, xix. 279; P. C. R., xli. 5, 6.
[54] P. C. R., xlii. 7, 8.
[55] *Ibid.*, xliii. 9.
[56] *Ibid.*, xliv. 13.
[57] *Ibid.*, xlv. 1.
[58] *Ibid.*, xlvii. 3.
[59] *Ibid.*, xlix. 3.
[60] *Ibid.*, l, January 1638-9.
[61] *Ibid.*, li. 3.
[62] *Ibid.*, liii. 5.
[63] *Ibid.*, liii.

reported, with exaggeration, that the number of councillors and titled persons was so constantly multiplied that they were no longer distinguishable from common people.[64] After the middle of the reign, however, there was constant tendency towards restraint and decrease. "It hath been, and will be, always necessary to admit to those Councils some men of great power who will not take the pains to have great parts, yet the number of the whole should not be too great," and the capacities and qualities of the most should be fit for business, wrote Clarendon in 1646.[65]

In 1634 the privy council contained: [66]

The archbishop of Canterbury	William Laud
lord keeper of the great seal	Lord Coventry
archbishop of York	Richard Neile
lord high treasurer	earl of Portland
lord keeper of the privy seal	earl of Manchester
duke of Lenox	
lord great chamberlain	earl of Lindsay
master of the horse	marquis of Hamilton
earl marshal	earl of Arundel and Surrey
lord chamberlain	earl of Pembroke and Montgomery
lord warden of the Cinque Ports	earl of Suffolk
lord chamberlain to the queen	earl of Dorset
earl of Salisbury	
lord president of Wales	earl of Bridgewater
earl of Exeter	

[64] Letter of Alvise Contarini, 29 February 1628 (N. S.): Venetian Transcripts, xv. 967.

[65] *History of the Rebellion*, i. 261.

[66] P. C. R., xliv. 13.

groom of the stole	earl of Carlisle
captain of the king's guard	earl of Holland
earl of Danby	
lord chancellor of Scotland	Lord Dupplin
earl of Morton	
earl of Kellie	
earl of Melrose	
earl of Mar	
Viscount Wimbledon	
lord deputy of Ireland	Viscount Wentworth
Viscount Wilmot	
chancellor of the exchequer	Lord Cottington
chancellor of the duchy	Lord Newburg
secretary of Scotland	Lord Sterling
treasurer of his majesty's household	Sir Thomas Edmonds
comptroller of the king's household	Sir Henry Vane
master of the wards and liveries	Sir Robert Nanton
vice chamberlain to the king	Sir Thomas Jerman
secretary of state	Sir John Coke
secretary of state	Sir Francis Windebank
master of the rolls	Sir Julius Caesar

The personnel of the council was often studied with care by foreign representatives in England, and English observers made frequent comments upon it. In 1613 Gondomar reported that some members of the council were Catholics but most of them schismatics or atheists, and that the majority were men of small property and

little experience in affairs of state and of war.[67] This unflattering account soon found its way back to England.[68] The presence of Scots in the council was often noted.[69] In 1636 the Venetian ambassador wrote that complaint was being made freely about the principal offices and the major authority in the royal council gradually coming into possession of ecclesiastics to the prejudice of the nobility.[70] Some aspersed them as papists: "I hear of certain Papers scattered lately in *Somerset-House* directed to the Lords of his Majesty's Council, wherein 'tis said, that half of his Majesty's Council are of the Romish Religion already." [71] In 1641 a Venetian observed that the king, in order to gain them, had admitted to his council six nobles who had led the movement against him in the year preceding, and had been most obstinately opposed to his policy.[72]

The position of a privy councillor was one of eminence and power. Contemporaries agreed that it often brought considerable opportunity for profit. Excepting the four Scots, said the Venetian ambassador in 1607, the council, which he declared was composed of twenty-five members,

[67] "Y los mas son sujetos de poca experiencia y caudal en materias de estado y guerra." Letter to the king of Spain, 6 September 1613 (N. S.): Spanish Transcripts, II, iii.

[68] John Digby to Charles I: S. P. Foreign, Spain, xx, 22 September 1613.

[69] "4 sono Scozzesi, ma poco affrontano in alcuna cosa non essendo pari in numero agli altri." Relazione di Marcontonio Correr, *Relazioni degli Stati Europei*, IV. i. 121 (1611).

[70] Letter of Angelo Correr, 21 March 1636 (N. S.): Venetian Transcripts, xviii. 122.

[71] Rev. Mr. Garrard to the Lord Deputy Strafford, 16 December 1637: *Strafford Letters* (London, 1739), ii. 142.

[72] "A sei soggetti della prima nobiltà principali capi delle rivolte dell' anno passato, e persecutori di lui maggiormente ostinati ha dispensato le cariche più eminenti della Corona e donata loro la marca de consiglieri di Stato; tutto con il solo riguardo di guadagnarli in quest' occasione." Despatch of Giovanni Giustinian, 8 March 1641 (N.S.): Venetian Transcripts, xxiii. 203.

consisted of Englishmen, who were all of them of the first and principal lords of the realm, if not for nobility and ancient lineage, at least because they had been made great through the authority and favor of the king, being all of them, as it were, earls.[73] In 1620 Chamberlain wrote to Carleton that on the occasion of the king's visit in state to St. Paul's, many absented themselves from the king's train, namely, the secretaries of state, the chancellor of the exchequer, the treasurer and the comptroller of the king's household, and others of the privy council, because the earl marshall had decided that they should come after the sons of earls. Some were saying that privy councillors usurped the title of honorable, "they are but right worshipfull of the honorable counsaile." And a little later Carleton reported that James had decided younger sons of earls had precedence over knights councillors.[74] In a later age it was noted as an established custom that "A Privy Counsellor, though but a Gentleman, shall have Precedence of all Knights, Baronets, and younger Sons of all Barons and Viscounts." [75]

The position of councillor was much desired not only for its dignity but also for the emolument that it might bring. Great families, as long before in the king's council, were glad to have places in it. In 1611 a Venetian noted that of the House of Howard the earl of Northampton was lord privy seal and lord warden of the Cinque

[73] Tutto il resto è di nazione inglese, e sono tutti dei primi e principali signori del regno, se non per nobiltà ed antichità, almeno fatti grandi coll' autorità e favore del re, essendo quasi tutti conti, che in quel regno è cosa stimatissima, portando tutti la corona nelle loro armi, e facendosi servire da suoi in ginocchioni, ancora che il loro dominio come conti son sia di alcun momento, poichè non hanno autorità di giudicare di una causa di un soldo, nè di metter in prigione, non che castigarlo; ma tutto è fumo e vanità della quale è cosi ripiena la nazione inglese, che certo non ve n'ha alcuna che la superi, e poche che la equaglino." Relazione di Nicoló Molin, *Relazioni degli Stati Europei*, IV, i. 57, 58.

[74] S. P. D., James I, cxiii, 1 April 1620; cxvi, 8 July, 1620.

[75] Edward Chamberlayne, *Angliæ Notitia* (1679), part ii, p. 3.

Ports, the earl of Nottingham lord admiral, the earl of Suffolk lord chamberlain.[76] In 1616 Chamberlain informed Carleton that the queen had long labored to obtain a position in the privy council for Lord Carew, and had now obtained it from the king.[77] A little later he reported that the world talked somewhat freely "that offices . . . and specially counsaillorships shold passe as y^{t} werre by bargain and sale."[78] In 1624 Secretary Calvert affirmed that for a consideration he would be willing to give up his position of secretary of state, but that he would like "to hold still the honour of a Priuie Counsellour."[79]

Molin in his *relazione* of 1607 declared that there were few who sooner or later were not compelled to have recourse to the council, whence it came that everyone strove to acquire the good will or the protection of some one of the councillors, which was not to be done save by gifts.[80] In 1611 the French ambassador wrote that the council had prevailed on James to reduce his expenses. The retrenchment principally concerned the Scots, who, in their anger, caused to fall into the king's hands a letter which displayed the many things which the principal members of the council had done to the prejudice of his majesty's affairs and for their own profit.[81]

[76] "Sono questi tre soggeti strettamente uniti insieme di parentado." Relazione di Marcantonio Correr, *Relazioni degli Stati Europei*, IV, i. 123.

[77] S. P. D., James I, lxxxviii, 20 July 1616.

[78] *Ibid.*, xcv, 3 January 1617-18.

[79] S. P. D., James I, clxiv, 3 May 1624.

[80] "Di qui è che ognuno procura di acquistarsi la grazia e la protezione di alcuno dei consiglieri, il che non si può fare in quel paese con altri mezzi nè con altre vie che con presenti e donativi: li quali sono così ordinarj in quei paesi che chi più riceve è più stimato ed onorato, ricevendo non solo da sudditi ma da stranieri e da ministri di principi ancora, siccome si è veduto in diverse occasioni." *Relazioni degli Stati Europei*, IV, i. 58.

[81] "Une lettre qui descouvre beaucoup de coups qu'ont fait les principaux dud. conseil au desavantage des affaires de Sa Mat^{é} pour leur proffit et maintient. Que la seulle maison des Hauuards, a laquelle est

The influence of Spain over the English government for many years in the time of James I was observed with astonishment by contemporaries and has often been chronicled since. An important cause in sustaining this influence was doubtless the control of many members of the privy council through pensions and bribes paid by Spain. In 1611 the Venetian ambassador believed that the lord privy seal, the lord admiral, and the lord chamberlain, along with some others of the royal council, were annually paid by the Spanish government.[82] In 1614 Gondomar wrote to the king of Spain a lengthy report concerning previous pensions, how payments in the future might be made with most advantage, and how other officials at the English court might be won to accept them. "Some have advised me," he says, "that we could gain the archbishop and the chancellor, that the means would be to give each of them a large pension." He went on to say that France, so he heard, spent each year eighty thousand ducats on the Scots and other persons.[83] Gondo-

attaché le Grand Tresorier, a plus fait de proffits extraordinaires en un an, que n'ont tous les Escossois ensemble depuis qu'ilz sont icy." M. de la Broderie to M. de Puisieux, 6 January 1611 (N. S.): Transcripts from Paris, xli.

[82] "Tutti tre sono stati provisionati annualmente da Spagna, con qualchedun' altro del consiglio regio." Relazione di Correr, *Relazioni degli Stati Europei*, IV, i. 123, 124.

[83] "Si el Conde de Somerset quisiese los seis mil ducados que se daban al Conde de Salzueri pareceme que serian muj bien empleados, y dos mill ducados a Don Thomas Lac que es del Consejo de Estado y ha hecho officio de gran Secretario y no esta oy fuera de sello, y todauia conserba la gracia del Rey y muchos papeles de importancia. A los demas se pueden premiar conforme a los seruicios y assi lo hago yo. Algunos me han aconsejado que procurasemos ganar al Arçobispo y al Chanciller y que el camino era dalles a cada vno gruesa pension . . . Escoceses ay algunos que podrian ser de provecho y un Vizconde Fenton que es del Consejo de Estado me han dicho que tomaria pension y seria fiel. Francia me dizen que gasta aqui cada año ochenta mil ducados con los Escoceses y otras personas." Don Diego Sarmiento to the king of Spain, 17 October 1614 (N. S.): Spanish Transcripts, II. viii.

mar stated that he had been disbursing thirty thousand crowns a year, but on the death of some of the pensioners the amount had declined to eleven thousand, and now because of the death of the earl of Northampton four thousand more were falling in. With the passing of this official, however, it was all the more necessary to gain other "confidants" for his master's service.[84] "The Spanish ambassador usually bribes a great part of the privy council," says a Venetian report in 1618. The first ambassador of Spain in the reign of James I used to distribute among the members of the privy council some twenty-eight thousand crowns annually, which a later ambassador increased to thirty-five thousand. This money was divided among eleven, and at other times, twelve individuals. In this and other ways a million pieces of gold had been expended in thirteen years. In consequence much advantage had come to the Spaniards.[85] In 1622 a list of the pensions paid by Gondomar in England to those devoted to the service of Spain was again set forth.[86]

The privy council met in various places, where the court happened to be, or where it was the king's pleasure that the council should assemble. Most of the meetings, however, took place in Whitehall. It was afterwards said that in Elizabeth's time the council was wont to meet in the queen's presence chamber in Whitehall; that in James's time another room in the palace had been appointed for its use.[87] A little later a certain one declared that the privy council always had in every one of the king's residences a fair chamber where they kept the council table, with a little room adjoining, in which the

[84] Spanish Transcripts, II. viii, 17 October 1614 (N. S.).

[85] Account of Antonio Foscarini, 19 December 1618 (N. S.): Venetian Transcripts, ix. 149, 163, 164.

[86] Spanish Transcripts, II, xxvi.

[87] S. P. D., James I, cxix, 8 January 1620-1.

clerks of the council and their servants sat and wrote.[88] If the registers of the council be examined at random it is evident that under the earlier Stuarts the vast majority of the meetings were held at Whitehall. From May to December 1613, out of fifty-three meetings held altogether, forty-one were at Whitehall and twelve at various other places.[89] During the year 1616 eighty-seven meetings of the privy council were held: sixty-seven at Whitehall, twenty in various other places.[90] In 1622 there were seventy-five meetings, of which all but ten were held at Whitehall.[91] In 1625 thirty-eight meetings were at Whitehall, forty-seven in various other places.[92] In the period from June 1631 to April 1632 seventy-one meetings were held in the presence of the king at Whitehall, while only three were held in other places.[93] In 1638 seventy-one meetings of the council or of some of its members were held at Whitehall; eighty were held in other places, fifty-eight of them in the Star Chamber.[94]

When not at Whitehall the privy council met where the king was holding his court, or else where the convenience of business or of the members dictated. James I loved to be away from London at Greenwich, Hampton Court, Oatlands, Theobalds, or Nonesuch. To these places he often went for his hunting or his leisure, and often, withdrawing himself there from most of the routine of business, wished to see as little of his privy council as he could. Sometimes he did not hide his annoyance when councillors desired to come where he was, or wished him to come to a meeting. In 1610 when the earl of Salisbury, apparently, had proposed a meeting of the council in the presence of the king, James's secretary replied that the king was not willing to attend merely about the form of

[88] S. P. D., Charles I, viii, 31 October 1625.
[89] P. C. R., xxvii.
[90] *Ibid.*, xxviii.
[91] *Ibid.*, xxxi.
[92] *Ibid.*, xxxii.
[93] *Ibid.*, xli.
[94] *Ibid.*, xlix.

dissolving parliament, and that he would come only if the council had some reasons to propose why the parliament should not be dissolved. "To have a solemne meeting between him and his Councell and no worthy matter to result of it were as his M. hath alredy written parturiunt montes." [95] In 1623 Secretary Calvert on the back of a paper containing other matters made the following note: "The Lo: President hath signified his Maties pleasure to the Lords for their ordinary sitting in Counsell & forbearing to come to Court wthout leaue." [96] None the less, on numerous occasions the privy council was assembled where the king was holding his court away from London. Molin, the Venetian, says that the councillors ordinarily followed the king, except, as was often the case, when the king went away privately on his pleasure, in which case the councillors remained where the court remained, for the most part at London.[97]

In the spring and summer of 1603 there were meetings at Theobalds, Greenwich, and Hampton Court.[98] In the time of James I Greenwich was a favorite place, with other meetings at Windsor, Hampton Court, Oatlands, and Theobalds. A council was held "At the Court at Newmarkett" in 1618.[99] That year the French ambassador writes that the king, queen, prince, and all the council are at Greenwich, that it is believed within a fortnight important resolutions will be taken there.[100] Later that year a council was held "At the Court at Salisburie." [101] "The King is at Windsor whither he hath summoned all the

[95] S. P. D., James I, lviii, 26, 27 November 1610.

[96] *Ibid.*, cxxxviii, 25 February 1622-3.

[97] Relazione di Nicoló Molin (1607): *Relazioni degli Stati Europei*, IV, i. 58.

[98] Add. MS. 11402, fos. 88, 89, 102, 106.

[99] P. C. R., xxix, 1 February 1617-18.

[100] Transcripts from Paris, lii. 260.

[101] P. C. R., xxix, 5 August 1618.

Councell," writes a correspondent in 1622.[102] In 1625 a council was held at Lambeth.[103] Under Charles I the meetings away from Whitehall were even more widely scattered. In August 1626 a council met at Christ Church, Oxford.[104] A little later one was called at the court at Woodstock.[105] In the following months many councils were held in Southampton, Wilton, Salisbury, and Reading. Thereafter most of the council meetings were either at Whitehall or in Westminster, until the last troubled years of Charles's reign. From October 1640 to August 1645 the records become more and more scanty and the meetings constantly fewer. In January 1642 Charles's last council at Whitehall was held. In August of that year there was a council at Nottingham, and afterwards various meetings at Oxford.[106] Clarendon says that in 1643 the privy council broke into pieces, some of the members remaining in London to support parliament, some of them going away with the king to Oxford.[107] The last meeting recorded for this period was "At the Schooles in Oxford." [108]

During all this time also meetings of the privy council were not only held at the court or at Whitehall but in various other places, as suited the convenience of the councillors, apparently, when the king was not to be present. In 1615 there was a meeting of the council at Suffolk House.[109] In the next year there were several meetings at York House.[110] In 1621 there was a meeting of the council, or at least of several of the privy councillors, "At S^{r} ffrancis Jones his House Lo Maior of the Cittie of London." [111]

[102] Roger Townshend to Sir Roger Townshend, 31 August 1622: *H. M. C.*, 11th report, appendix, iv. 20.
[103] P. C. R., xxxii, 17 March 1624-5.
[104] *Ibid.*, xxxiii, 10 August 1625.
[105] *Ibid.*, 14 August 1625.
[106] P. C. R., liii.
[107] *History of the Rebellion*, ii. 527, 537.
[108] P. C. R., liii, 30 August 1645.
[109] *Ibid.*, xxviii, 19 June 1615.
[110] *Ibid.*, xxxviii, 4, 12 September, 1616.
[111] *Ibid.*, xxxi, 30 July 1621.

Other meetings of this sort were held a little later at the houses of two of the sheriffs of London.[112] A meeting of three councillors, including the lord treasurer and one of the secretaries, took place at the lord treasurer's lodgings at the Cockpit in Whitehall[113]—the favorite resort of members of the committee of foreign affairs and of the cabinet many years later. In 1622 there was a meeting of eight councillors at the sheriff's house in London.[114] Two years later nine of the more important members gathered "At the Lord Mayors house in wood streete."[115] A little after ten of the most important councillors, including the archbishop of Canterbury, met "At sheriff Molsome's house in London."[116]

More interesting than the occasional meetings in such unusual places, were the gatherings of the council in Westminster in the Star Chamber, such meetings of the council again becoming frequent during this period. In 1617 and in 1618, when there were numerous meetings of the privy council at Whitehall, there were not a few council meetings also in the Star Chamber.[117] During 1620 there were many meetings of privy council there. It might be thought that they were but sessions of the Court of Star Chamber. On one occasion, indeed, when a meeting of eleven members of the council at the Star Chamber is recorded in the privy council register, it is known from another source that on that day a certain one submitted to the king's clemency in the Court of Star

[112] P. C. R., xxxi, 6, 9 August 1621.

[113] *Ibid.*, xxxi, 28 August 1621. Though the record of the meeting is in the privy council register along with many other meetings that were undoubtedly of the privy council, it is quite possible that this particular gathering and some others like it were of committees of the council, for it is seldom that any distinguishing annotation is made at this time, as was generally the custom later on.

[114] *Ibid.*, xxxi, 4 March 1621-2.

[115] *Ibid.*, xxxii, 19 June 1624.

[116] *Ibid.*, 2 July 1624.

[117] *Ibid.*, xxix, 10, 17, 22 October, 14, 21, 29 November 1617, 28, 30 January 1617-18, 6, 8 May 1618, and others.

Chamber.[118] Yet, not only are the records of the meetings in question embodied in the formal record of business of the privy council, with no marginal annotation to distinguish them from council meetings, but the details of the records seem to establish them as meetings of the privy council. These Star Chamber meetings often decided causes, heard complaints, or committed to prison, but so did many meetings elsewhere which were undoubtedly privy councils. Frequently, moreover, the privy councillors meeting in the Star Chamber did much of what is known to be the purely ordinary business of the privy council. In June 1632, and also in October and November, there were numerous meetings of the council in the Star Chamber, to deal with what were undoubtedly privy council matters: all sorts of orders and regulations were issued as well as a proclamation.[119]

It may be, though perhaps no evidence specifically confirms such contention, that sometimes when sessions of the court of Star Chamber were to be held, the members present, either before or after holding the court, constituted themselves a privy council, and that on occasion it is the record of council business thus transacted that is recorded in the registers of the privy council as of privy councils in the Star Chamber. The facility with which at a single sitting a privy council would be metamorphosed into a committee of council, and the equal facility with which a committee would be transformed at will into a council in the latter part of the century lends probability to this supposition. In any event the meetings of councillors in the Star Chamber during the latter years of James I and the much more frequent gatherings of the same sort in the time of Charles I afford one more illustration of the oft-repeated assertion that coun-

[118] *Ibid.*, xxx, 27 October 1620; S.P.D., James I, cxvii [27 October 1620], 35.

[119] P.C.R., xlii.

cil and court of Star Chamber were but two aspects or phases of one and the same group of officials.

There were several meetings of privy council in the Star Chamber during 1625.[120] There was such a meeting in 1632.[121] In 1633 and in 1634 perhaps the larger number of all the meetings recorded were held in the Star Chamber.[122] Sometimes at such a meeting measures were taken to enforce a decision made apparently in the court of Star Chamber. In 1634 at a meeting in the Star Chamber where ten of the councillors were present, their lordships being informed that the sheriffs had not executed a decree in Star Chamber for demolishing certain buildings ordered the surveyor and the comptroller of his majesty's works to report on the Friday following whether the order had been carried out, the sheriff or the undersheriff to attend them at the same time.[123] In 1635, 1636, 1637 and 1638 there were many meetings in the Star Chamber and many others in the Inner Star Chamber.[124] Some of these gatherings were apparently committees of the council, and often they dealt with petitions which had been referred to particular members by the king. Sometimes those present listened to complaints. Of such business there was always a vast deal encroaching upon the time of the privy council.

During this period, as in the century preceding, the council was often divided into two parts, when some of the councillors were with the king during his absences from London while others remained at Whitehall. In 1616 the lords of the council with the king at Burley sent a communication about several matters to the lords of the council in London, and a few days later the lords in London sent a missive to "the Lordes and others of his

[120] P. C. R., xxxiii, 11, 13, 18, 20, 25 May 1625.
[121] *Ibid.*, xli, 14 February 1631-2.
[122] *Ibid., passim.*
[123] *Ibid.*, xliv, 24 October 1634.
[124] *Ibid.*, xlv, xlvii, xlviii, xlix.

Ma! priuie Councell at Court." [125] Next year a letter having come from the councillors with the king, ten of the privy council held a meeting at Whitehall, and so far as they could having done what the councillors with the king had by his order directed, they wrote to that effect "A Lr̃e to the Ll^s of the Councell at Courte." [126] In 1633 when Charles I went to Scotland to be crowned there, some of the privy council went with him. During this absence the members in England continued to send communications to the lords of the council attendant upon his majesty in Scotland.[127] In 1639 when Charles proceeded to the north some of the privy councillors went with him while a part of the council remained in London.[128] Such division was not without inconveniences at times. In 1623 some of the councillors were at court with the king, some of them were at London. Those at court, when important business was presented for their consideration, expressed the wish to wait until they knew the opinion of the councillors left behind, or until there could be a meeting of both the groups together.[129]

Meetings of the council were held with considerable frequency, so that often there was a large number in the course of a year. Attendance at the council if regular must have been an onerous and engrossing duty. In 1605 when James I was about to begin a journey for recreation and rest, he enjoined the council to assemble twice a week regularly, and at such other times as he might direct the secretaries of state to announce.[130] In 1629 the Venetian ambassador recorded that the council was sitting every day, for three or four hours, the king always present.[131]

[125] S. P. D., James I, lxxxviii, 6, 13 August 1616.
[126] P. C. R., xxix, 13 August 1617.
[127] S. P. D., Charles I, ccxli.
[128] *Ibid.*, ccccxiv. 113; ccccxv. 43.
[129] S. P. D., James I, cl. 98.
[130] *Ibid.*, xii, 9 January 1604-5.
[131] Letter of Alvise Contarini, 6 April 1629 (N. S.): Venetian Transcripts, xvii. 2323.

During the last six months of 1616 there were thirty-six meetings of the council.[132] In 1622 there were seventy-five meetings.[133] In 1625 the councillors assembled eighty-five times.[134] In 1638 there were one hundred and sixty-two meetings of the privy council or of committees of the council, the latter being much less frequent than the council meetings so far as distinction can be made from the records preserved in the register.[135] Furthermore, it should be noted that apparently much council business was done or completed on days when no meeting of the council was held.[136]

About 1625 Secretary Coke noted that the councillors assembled either on days arranged among themselves or upon summons by one of the secretaries of state.[137] In 1605 James, giving his instructions, directed that the lords of the council should meet once a week "besides the Sunday after the Sermon."[138] "The Lords of the Councell have appointed to meet constantly once a weeke," says the secretary of state in 1641.[139] Meetings were held on various days, but with marked regularity on particular days. In June 1613 the eight meetings took place respectively on Tuesday, Sunday, Saturday, Sunday, Saturday, Sunday, Thursday, Sunday.[140] Eight meetings in April 1616 were on Wednesday, Sunday, Monday, Tuesday, Sunday, Thursday, Saturday, Monday.[141]

Sunday was the more usual of the regular days, as it continued to be long afterward for meetings of the committee of foreign affairs, the committee of intelligence, and later of the cabinet or "the committee" of the coun-

[132] P. C. R., xxviii.
[133] *Ibid.*, xxxi.
[134] *Ibid.*, xxxiii.
[135] *Ibid.*, xlix.
[136] See, for example, *ibid.*, xxvii, 8, 12 March 1613-14, 10 June 1614.
[137] S. P. D., Charles I, viii, October 1625.
[138] S. P. D., James I, xii, 9 January 1604-5.
[139] Sir Edward Nicholas to Sir Henry Vane, 11 August 1641: *Nicholas Papers* (Camden Society, new series, xl), p. 6.
[140] P. C. R., xxvii.
[141] *Ibid.*, xxviii.

cil. Certain notes of James I in 1605 are endorsed "Memoriall for Sondaye," and concern business to be taken up "with the counsall." [142] In 1618 a Spanish informant narrates that James returning from Theobalds to London on Saturday ordered one of the secretaries to summon each councillor, and that the king was present at a meeting in the council chamber Sunday morning.[143] In 1622 the Dutch ambassador wrote that a report was made in a full council held on Sunday.[144] "Sonday next Counsell for the postes & S[t] Gregories: the King himselfe wilbe there if both parties can be redy," says Secretary Windebank in 1633, in some minutes of business to be transacted in the privy council.[145] "On *Sunday* the sixth of *March* his Majesty being at Council presently after the Sermon, which in *Lent* is in the Afternoon, sent Mr. Secretary *Windebank* for the Bishop of *London*, to whom he gave the Staff, then was he sworn a Counsellor." [146] Later on Clarendon, writing of the events of 1643, says, apparently referring to certain Puritans, that the lord mayor of London called the common council on Sunday, "on which they before complained the King used to sit in Council." [147]

[142] S. P. D., James I, xiv, assigned to 21 June 1605.

[143] "Y sabado 28—deste mes a la tarde vino el Rey desde Tibols donde estaua a esta ciudad, y luego en llegando dio orden a Don Robert Nanton Secretario de estado, que avisase a todos los del consejo a cada uno en particular, que estuviessen el dia siguiente domingo juntos en la sala del consejo a las ocho de la mañana. Vinieron aquella hora, y el Rey se junto con ellos." Deciphered letter of Julian Sanchez de Ulloa to the king of Spain, 31 July 1618 (N.S.): Spanish Transcripts, II, xvii. 210.

[144] "D'heere Weston dede Sondach sijn rapport aen S. M[t] in vollen rade, waerinne hij hem soo wel queet, dat ijedereen daerover nam contentement." The Dutch ambassador to the states general, 14 October 1622 (N.S.): Add. MS. 17677 K.

[145] S. P. D., Charles I, dxxxiv. 54.

[146] Rev. Mr. Garrard to the lord deputy, 15 March 1635-6: *Strafford Letters*, i. 523.

[147] *History of the Rebellion*, iii. 138.

It is of some interest, though of slight importance, to note that meetings of the privy council took place indifferently in the morning or the afternoon, and that on the whole it would be difficult to say which was the more usual time. In some months the meetings were almost regularly in the the morning; at other times they were generally in the afternoon, the hours doubtless chosen for convenience in the routine of the time.

Probably most meetings of the council were easily dispatched in a few hours, but sometimes members met in the morning and continued the same sitting or held another session that afternoon. In 1610 Lady Arabella Stuart was kept before the council for more than three hours.[148] Next year the Venetian ambassador says that on a June afternoon the king who had been at Greenwich returned to London, and that he and the lords of the council spent all the rest of the day in close consultation.[149] In 1616 a council held at Hampton Court sat morning and afternoon, and "as the same Sessions" the next day.[150] In 1623 there was a meeting of the privy council in the morning and also one following dinner in the afternoon.[151] In his account of the meeting of the council in 1618 the Spanish correspondent said that the king and his councillors entered the chamber at nine o'clock of the morning, remained until twelve, then had dinner, resumed business at four, and continued until seven.[152] In 1626 when the lords considered the demands of the French ambassador after the dismissal of the

[148] Transcripts from Paris, xli, 3 January 1610 (N. S.).

[149] Letter of Antonio Foscarini, 15 June 1611 (N.S.): Venetian Transcripts, ix. 28.

[150] P. C. R., xxviii, 26, 27 September 1616.

[151] S. P. D., James I, cxxxviii, 20 February 1622-3.

[152] "A las nueve entraron en consejo y estuvieron hasta las doze que el Rey se salio y se fue a comer y los consejeros comieron en la misma sala del consejo despues de comer entraron donde estava el Rey y bolbieron con el a las quatro al Consejo, y se detuvieron hasta las siete de la tarde." Spanish Transcripts, II. xvii. 210.

queen's servants, "the Privy Council sat for three consecutive days, weighing the public interests, the Duke speaking very freely." [153]

With respect to attendance, close inspection of the registers reveals almost infinite variety and differences from which, however, certain important conclusions are to be deduced. Rarely, if ever, did the entire privy council assemble. Some of the members were seldom present. Some others came irregularly, so that the size and personnel of any large number of meetings varied very much.

In 1619 a writer observed, it was taken as a matter of course that a privy council should meet with some of the principal officers present, such as the lord treasurer, the lord chamberlain, and a secretary of state.[154] It may be said that while generally the secretaries of state, who became constantly more important, were among the most constant of all the members in attendance at council, yet in the earlier period, when they were less important, this was not always so. In 1613, at the thirty meetings held from May to September inclusive, neither of the secretaries was present even once.[155] Somewhat later one of the secretaries writing to the other said that the king very much disliked the frequent absence of the notable counsellors. He thought they lost dignity and that the business of the council was hindered. "The reformacon of wch his Matie wills yo^{u} to presse as a singular pleasure to him." [156] According to Sir Julius Caesar, the lords of the council who were not ordinary great officers of state and those who were not lodging at court were not accustomed to come to meetings of the council, except upon command given either by the lord president of the council or by one

[153] Letter of Contarini, 23 October 1626 (N.S.): Venetian Transcripts, xiii. 100.

[154] S. P. D., James I, cxi, 20 November 1619. [155] P. C. R., xxvii.

[156] Secretary Conway to Secretary Calvert: S. P. D., James I, cxlvii, 30 June 1623.

of the secretaries of state, in which case they ought never to fail in coming unless they sent sufficient excuse.[157] In 1629 a French memoir concerning England declared that of the council, which it said contained twenty-five members—at this time it probably contained forty, ordinarily no more than eighteen members were at the court.[158]

For the most part certain important and dependable officials seldom stayed away, and they constituted the normal and constant nucleus of the privy councils that were held. It will be shown that it was from this nucleus that the most important of the committees of the council were formed later on, especially that committee which was the original of the cabinet council. In 1613 from May to September inclusive there were thirty meetings of the council. During that time attendance of the principal members was as follows:[159]

The archbishop of Canterbury	27 times
lord chancellor	26
lord chamberlain	24
lord privy seal	29
chancellor of the exchequer	29
chancellor of the duchy	22
earl of Shrewsbury	18
vice chamberlain of the king's household	19
treasurer of the king's household	17
earl of Pembroke	16
comptroller of the king's household	14

Some of the other members never came to a meeting, while some were present once, twice, or thrice. At this time the council contained twenty-three members.

In 1616 the archbishop of Canterbury was absent from only three of the eighty-seven meetings that were held, the lord treasurer, the lord privy seal, the chancellor of the exchequer, the master of the rolls, and the two secre-

[157] S. P. D., Charles I, viii, 31 October 1625.
[158] Transcripts from Paris, lxvi. 234.
[159] P. C. R., xxvii.

taries attended almost as frequently, and a few others, such as the lord privy seal, the lord chamberlain, and the lord steward, came with such fair regularity that a group of nine or ten or twelve may be said to have constituted the effective privy council at this time.[160] Tabulation of attendance in other years chosen at random reveals much the same thing. In 1622 the lord keeper, the lord treasurer, the lord president, the treasurer of the king's household, the master of the rolls, the two secretaries, and the lord steward attended most of the seventy-five meetings, while the lord chamberlain attended the majority, as did the archbishop of Canterbury during the second half of the year.[161] In 1638 to the one hundred and fifty-one meetings of the council or its committees, sometimes two sessions on the same day, the archbishop of Canterbury, the lord keeper, the lord treasurer, the lord privy seal, the treasurer and the comptroller of the household, the two secretaries, and one or two of Charles I's confidants among the lords of the council attended nearly all of the meetings. A few others came less frequently yet attended a great many of the gatherings. The others came occasionally or not at all. During this year the privy council meetings were made up of a group of eight or ten who generally came, and half a dozen others who came more often than they were absent.[162]

Beyond these generalizations, however, particular meetings of the council reveal a very great variety with respect to size and composition. In 1608 an order of council was issued by the sixteen who were present.[163] Two years later a council of eleven consisted of six great officials and five others.[164] A few months after a council of sixteen committed a certain one to prison.[165] In 1616 the king in council with seventeen members considered a case of

[160] *Ibid.*, xxviii. [161] *Ibid.*, xxxi.
[162] *Ibid.*, xlix. [163] S. P. D., James I, xxxvii, 27 November 1608.
[164] Add. MS. 11402, fo. 158. [165] S. P. D., James I, liii, 11 March 1609-10.

commendam; and later that year the king was present at a meeting of eighteen.[166] In 1617 a privy council of seven was held at Newcastle.[167] In 1618, on a Sunday morning at Whitehall, there was a council attended by twenty-one.[168] Later that year, when many large meetings were held, there was a council meeting at Whitehall attended by four of the members.[169] In 1621 nineteen were at a council which appointed a committee to take measures for the recovery of the Palatinate.[170] In 1626, after the disastrous defeat of the king of Denmark, at a time when the privy council contained thirty members, " The King's moste Excellent Maiestie And a full Bodie of Counsell "—twenty-one members were present—considered how aid might be given.[171] There were frequently large meetings of the council in the presence of the king at the time of the expedition to Ré.[172] In 1628 there was a council of twenty-six at Whitehall.[173] Next year the king " in full Councell " was attended by twenty-eight members;[174] and a little later that year he presided over a council of twenty-six.[175] In 1635 twenty-eight out of the thirty-three members of the council attended a meeting.[176] Seven councils were held during June 1636, at which the largest attendance was eighteen and the smallest eight.[177] On the whole, perhaps, it may be said that ten or twelve was the average normal attendance, so far as such a statement can be made at all. On the other hand there are many records of meetings, some of which may have been of committees, attended by two or three or four or five or six. " The Lords have had a meeting this afternoon in Council," the secre-

[166] P. C. R., xxviii, 6 June, 8 November 1616.
[167] *Ibid.*, xxix, 4 May 1617. [168] *Ibid.*, 15 February 1617-18.
[169] *Ibid.*, 4 June 1618. [170] S. P. D., James I, cxix, 13 January 1620-1.
[171] P. C. R., xxxiv, 14 September 1626.
[172] *Ibid.*, xxxvi, November, December 1627.
[173] *Ibid.*, xxxviii, 31 October 1628.
[174] *Ibid.*, xxxix, 22 February 1628-9.
[175] S. P. D., Charles I, cxlv, 28 June 1629.
[176] P. C. R., xlv, 1 July 1635. [177] S. P. D., Charles I, cccxxv. 17.

tary writes to the king in 1640, "but the Board being thin, there hath little fallen into consideration of moment concerning the Publick." [178]

The king was often present at meetings of the council, and at times he presided regularly when important business had to be considered. On the whole, however, it may be said that usually the king was not present. It is possible, to be sure, that the king was in council more often than the council record reveals it. In 1625 he is stated to have been present in connection with certain business, but his name is not at the top of the record in the list of those given as present.[179] In 1627 there was a meeting to the council record of which is prefixed a list of the nine members present. The king's name is not in this list. He may, however, have come in during the discussion, which concerned a cause upon which an order of the council was given. At all events, a particular account of the cause was given to the king. Under the entry of this matter is the note: "His Matie was present, & was pleased to signifie his royal pleasure for the ensuing Orders." [180] In some places in the margin of the register there is an asterisk. It would seem that this sometimes indicates the presence of the king in council when his being there has not been otherwise noticed. On the other hand, in 1640 the king is put at the head of those given as present at a certain meeting, but after the first item of business a note in the margin says: "The King not present." [181]

James I disliked the trouble of coming, and for long periods he seldom if ever attended. From May to September 1613 he came to two of the thirty meetings that were held.[182] In 1614 for some months he never came once.[183] He was present four times in 1616, when there

[178] *Clarendon State Papers*, ii. 120.
[179] P. C. R., xxxiii, 20 December 1625.
[180] *Ibid.*, xxxv, 7 January 1626-7.
[181] *Ibid.*, lii, 2 August 1640.
[182] *Ibid.*, xxvii.
[183] *Ibid.*

were eighty-seven meetings of the council.[184] He came only twice during 1618.[185] He came to two of the seventy-five councils held in 1622.[186] At this time Chamberlain wrote to Carleton: "The K. is now at Roiston, and the Prince wth the counsaile consult dayly at whitehall."[187] James came to council not once during the last three months of his reign, and Charles I was present only twice during the nine months of 1625 that followed.[188] When the king was not at the council, accounts of what was done there seem to have been sent to him either by a secretary of state or the lord president.[189]

Charles attended the council more and more as his reign progressed. He was frequently present in 1627.[190] In 1629 in council he declared with respect to certain matters that he had for the most part been present in council when they were discussed.[191] He attended with increasing frequency during that year. In 1638 he was present at forty-six meetings, when one hundred and fifty-one councils or committees were held in one hundred and sixty-two sessions.[192] From 2 November 1639 to 25 September 1640 he was present also quite frequently, some fifty-five times.[193] He had been present but seldom, however, in some of the years just preceding, and on the whole it may be doubted whether in all he came to as many as one meeting out of ten.

It may be said that prior to the decease of his father Prince Charles had often gone to meetings of the privy council, even before he became a member.[194] He was sworn a councillor three years before he came to the throne.[195] There appears to be no record of it in the

[184] P. C. R., xxviii.
[185] *Ibid.*, xxix, xxx.
[186] *Ibid.*, xxxi.
[187] S. P. D., James I, cxxxiii, 12 October 1622.
[188] P. C. R., xxxii.
[189] S. P. D., James I, cl, 13 August 1623.
[190] P. C. R., xxxvi.
[191] *Ibid.*, xxxix, 22 February 1628-9.
[192] *Ibid.*, xlix.
[193] *Ibid.*, li, lii.
[194] S. P. D., James I, cxxviii, 26 March 1622.
[195] "Mijnherre die prince is dese daghen voor ordinaris raedt door S. M^ts^ ordre ontfangen, hebbende den eedt gedaen ende sessie geno-

council register, but this is only one of many important things that the student would expect to find in the record which have been omitted through carelessness, accident, or design. In one of the state papers it is said that the king called together the privy council, and told the members that since the prince had often been present at the board, either with his father or without him, and had well acquainted himself with the manner and proceedings of the table, now for his better knowledge and for his experience in state affairs, he was to be a member of the council; that thereupon James commanded an act to be entered in the register to this effect.[196] A little later the French ambassador wrote that the king had left the prince in London to deliberate with the council concerning all affairs.[197]

When present the king presided over the council. In the more numerous meetings when he did not attend direction was in the hands of various officials. From time to time some councillor through high ability or great influence with the king or as a result of his power or his connections dominated and guided the council. In the earlier part of the reign of James the earl of Salisbury held such position. In 1607 the Venetian ambassador asserted that Salisbury moved and turned the council as he wished.[198] Salisbury died in 1612. Six years after this time another Venetian account recalled that he had for so many years kept the pith of council business to himself, and since his time the rest of the ministry were so new

men": the Dutch ambassador to the states general, Add. MS. 17677 K, 18 April 1622 (N. S.).

[196] S. P. D., James I, cxxviii, 26 March 1622.

[197] "Il a laissé le Prince icy en le Conseil pour délibérer de toutes affaires: mais ce sont corps sans âmes, car les résolutions dependans de luy" . . . M. de Tillières to M. de Puysieux, 18 October 1622 (N. S.): Transcripts from Paris, lvi. 130.

[198] "Parte con l'autorità e parte con la riputazione e parte con queste aderenze [several members of the House of Howard in the council], egli move e volta il Consiglio come vuole." *Relazioni degli Stati Europei*, IV, i. 61.

to the business of government, that it was still difficult to get anything settled by the privy council.[199] It was so with Buckingham later on. He was sworn of the council in February 1617.[200] In 1624 the Spanish ambassador wrote that Buckingham could carry his wishes gainst all the council—against the king for that matter.[201] "All thinges passe by him," said Chamberlain about the same time.[202] He alone—perhaps more than the king—sustained the burdensome management of the country's foreign and domestic affairs, was the report sent back to Venice.[203] Much of this, no doubt was through exclusion of the privy council more than through dominance in it. Immediately after Buckingham's death another foreign correspondent wrote that everything was now being managed by the privy council, and no longer by one head only as in the great man's time.[204]

According to a Venetian *relazione* of 1611, in the absence of the king the archbishop of Canterbury had first place in the council, with the lord chancellor second, and next after them the earl of Salisbury, who was lord treasurer and first secretary of state.[205] Three years later the Spanish ambassador said that the archbishop of Canterbury was first in the council.[206] In 1616, 1617,

[199] Account of Antonio Foscarini, 19 December 1618 (N.S.): Venetian Transcripts, ix. 157.

[200] P.C.R., xxviii, 4 February 1616-17.

[201] "Pues está resuelto el Parlamento . . . Todo esto puede vn ombre solo contra casi todos los demas consejeros y, lo que causa mas admiracion, contra la voluntad de su mismo Rey que lo leuanto del poluo de la tierra." Don Carlos Colonna to the king of Spain, 9 January 1624 (N.S.): Spanish Transcripts, II. xxxi.

[202] S.P.D., Charles I, ii, 6 May 1625.

[203] Letter of Alvise Contarini, 4 September 1626 (N. S.): Venetian Transcripts, xiii. 29.

[204] Amerigo Salvetti to the grand duke of Tuscany, 20, 26 October 1628 (N.S.): *H.M.C.*, 11th report, appendix, i. 165, 167.

[205] "Primo segretario di Stato": *Relazioni degli Stati Europei*, IV. i. 121.

[206] "Deste que llaman Arçobispo de Cantuaria que . . . es la primera persona deste Consejo de Estado." Don Diego Sarmiento to Señor Cardenal Melino, 15 May 1614 (N.S.): Spanish Transcripts, II, v. 120.

1618 the lord chancellor almost always heads the list of those whom the register records as present at meetings, and apparently he presided over the council.[207] Afterwards in the days of Laud's greatness the importance of the archbishop was maintained in privy council and Star Chamber. In 1617 when one of the secretaries of state, by the king's command, set out for Scotland, the councillors asked that the other should come to them as soon as might be, "for without a secretary they will not willingly assemble."[208] In 1627 a rule was laid down that the lord president or else one of the principal secretaries was to make known to the council the purpose of the meeting.[209] "The Lo: President," says the register on one occasion, "did this day acquainte the Board that the Lo: Admirall being himselfe indisposed in health, had sent Informacon to theire LLopps how greate necessitie ther is, to repaire and supply his mats Castles and fforts in the River of Thames, and the Cinque Ports."[210] It should be noted that the office of lord president, existent in Tudor times, had been in abeyance until 1621, and that after 1631—except for instances under the commonwealth and the protectorate—it lapsed again until revived by Charles II in 1679 when he reformed the privy council.[211]

[207] P. C. R., xxvii, xxviii, xxix.

[208] S. P. D., James I, xcii, 10 June 1617.

[209] P. C. R., liv. 1.

[210] *Ibid.*, xxxiii, 19 April 1626.

[211] There are references to the lord president in the time of Henry VIII: A. F. Pollard in *English Historical Review*, xxxvii. 354, 355. In 1552 the duke of Northumberland was spoken of as "Presidens Privati Consilii Dni. Regis": *Lords' Journals*, i. 394. Two years later, the Venetian ambassador, enumerating the "principali Ministri," styled the earl of Arundel "presidente del Consiglio": Albèri, I. iii. 65. In 1572 an account of the order of proceeding to parliament, gave "The L. Chancellor, the L. Treasurer, the L. President of the Councell," and others: Harleian MS. 853, fo. 112, cited in John Nichols, *The Progresses and Public Processions of Queen Elizabeth* (1805), iii. F. 39, 40. In the earlier Stuart period, apparently, the only lord president was Viscount Mandeville, who held during the years 1621-31.

CHAPTER V

REGULATIONS AND PROCEDURE

In the conduct of privy council business there was much variety and adaptation as seemed best to the lords in respect of the vast number of new and different things that were constantly arising, yet business was largely conducted under certain general rules that were well understood and formally revised or amplified on occasion. In 1625 Sir Julius Caesar observed that the council was expected to abide by rules laid down for the conduct of business in former reigns, as in that of Henry VI, or any time since, in the Rolls of Parliament or in the council books. It would be well now, he thought, if the king would appoint a commission to review all such rules and orders of the past, setting down the most fit, for regulation of the council at present.[1] Charles I, who was accepting advice and seeking better formal regulations with the zeal of a new monarch, seems to have complied at once. As a result, perhaps, of certain learned memoranda written by Sir Julius, one of the secretaries drew up rules for the council in 1625.[2] In 1628 "Orders to bee observed in Assemblyes of Councell," containing twenty-two regulations, were embodied in the register of the council.[3] In 1630 "Orders to be observed in assemblies of Counsell" appear in the register, "Signed by the Kinge Ma.tie

[1] S. P. D., Charles I, viii, 31 October 1625.

[2] Secretary Coke, "The manner & proceedings of the Councell Table": S. P. D., Charles I, viii. 81, assigned to October 1625.

[3] P. C. R., xxxviii. 1B-3; also in *ibid.*, liv. 1, the first register of the reign of Charles II. These regulations are likewise in S. P. D., Charles I, xciii, 20 February 1627-8. They are printed in *Clarendon State Papers*, i. 34-6.

and entred by his Commande." They contain twenty-three articles, of which the first thirteen are practically identical with the articles of 1628.[4]

Most meetings of the privy council were now held in the council chamber in Whitehall Palace, or in the council chamber reserved for it in the other abodes of the king. Under such circumstances they were always held about the board or the council table.[5] A Venetian ambassador, Scaramelli, has described a meeting of the lords of the council a few days before Elizabeth died. On Easter Day he went to Richmond. "I was immediately introduced into the Council Chamber. There I found sitting on long benches, on each side of a table, the Lord Chancellor, the Treasurer, the High Admiral, the Equerry *(Scudiero)*, the Lord Chief Justice of England, the Treasurer and the Controller of the Royal Household, and others not Peers but Knights. They numbered eleven in all, and no one was missing except the Archbishop of Canterbury, who is Primate of England and President of the Council as well. I was received with every mark of respect for your Serenity . . . They compelled me to sit down on a brocaded chair at the head of the table, and listened to me with gracious and friendly mien."[6] Francis Bacon, in his essay "Of Counsel," written between 1607 and 1612 and so important for the early history of the cabinet, comments upon the council board: "A long table and a square table, or seats about the walls, seem things of form, but are things of substance: for at a long table a few at the upper end, in effect, sway all the business."

The council chamber was under the care of a keeper, who furnished the paper, ink, wax, and other necessaries used by the members and the clerks, and who kept the

[4] P. C. R., xl. 152-5. [5] S. P. D., Charles I, viii, 31 October 1625.
[6] *Calendar of State Papers, Venetian, 1592-1603,* p. 567.

chest and the records of the council.[7] In the earlier period there had been only one keeper of the council chamber, and he was in continual attendance. It was not thought necessary to have more than one at a time, able and sufficient by himself and with his servants to discharge the duties of the place. Later on the office was bestowed on two keepers, who held by patent. In 1616 the council declared that neglect in discharging the duties had occasioned much inconvenience, neglect, and disorder, dishonoring the board and otherwise to the prejudice of the king's service. Accordingly it ordered that thenceforth each one of the keepers, with a servant or two, should wait by turns, for a month at a time, to the end that any abuse or neglect might be more easily discerned, and not passed on from one to the other as was being done. There had also been much complaint of exactions by the keepers of the chamber, from suitors and those who had business at the council table, to the great scandal of the place. So the keepers were commanded at their peril not to demand anything from persons having business, whether as a fee or under any pretence, either for giving them admittance to the council table or delivering petitions for them, or on any account. They must be content with their "ordinary entertainm[t]" received in accordance with their patents, and nothing further.[8] The history of those who kept the king's entrances later on and the general history of janitors and door-keepers in places high and low make it doubtful whether any complete cure was to be effected.

Adjoining the council chamber were other rooms used for privy council business, in which waited petitioners who were to have a hearing, or those whom the council had summoned to appear before it. In 1614 the king ordered the clerks of the council to see to it that when the

[7] P. C. R., xxxiv, 29 October 1626; S. P. D., Charles I, cxxiv. 48.
[8] P. C. R., xxviii, 17 March 1615-16.

council was sitting none should be allowed access to the council chamber save those who were called, and that they should depart at once when their business was done.[9]

In term time—11 to 31 January, 15 April to 8 May, 22 May to 12 June, and 2 to 25 November—the councillors were in ordinary course to hold regular meetings on Wednesday and Friday afternoons, if greater occasions of state did not hinder, to deal with business brought forward by suitors.[10] The other meetings were either arranged beforehand, or called by special summons. The members were to be warned to meet by order either of the lord president or one of the secretaries of state. Summons to attend was sent out by a clerk of the council.[11] When such summons went forth each councillor was supposed to keep the hour of meeting, or, if he could not come, send his excuse by the hour appointed, that the other councillors need not wait.[12] It was understood, however, that except for the great officers of state and the privy councillors at court at the time, members were not expected to attend unless they received a personal summons to come to a meeting.[13] When the councillors assembled, they were always to come through the presence chamber, not by the private way, unless they were upon "especiall and secret Comittees."[14] When as many as three lords were in the council chamber, all the suitors, attendants, and others must avoid the room which was to be kept private, both for dignity and that the lords might confer alone to prepare business before they sat.[15]

If it was a day for ordinary business, as soon as the lords of the council were seated, all petitioners were to

[9] *Ibid.*, xxvii, 21 October 1614.
[10] *Ibid.*, xxxviii. 1B; liv. 1.
[11] *Ibid.*; S. P. D., James I, xcvi, 9 March 1617-18.
[12] P. C. R., xxxviii. 1B; liv. 1.
[13] S. P. D., Charles I, viii, 31 October 1625.
[14] P. C. R., xl. 155; liv. 2.
[15] *Ibid.*, xxxviii. 1B; liv. 1.

be admitted, each one to deliver his petition at the upper end of the table kneeling. The petitions thus presented, each petitioner was to withdraw at once without talking or troubling the board, and not come in afterward unless he was summoned.[16] When this task had been done, or on days not appointed for ordinary business, the councillors took up other matters.

Caesar says the secretary of state was wont to acquaint the lords present with all occurrences except such as were by the king reserved for his privy consideration, these not being revealed except by his special direction. The secretary would stand at the upper end of the table, declaring what he had to say, to know their lordships' pleasure therein. Of late, however, business had been presented by the lord president. Yet matters of state or foreign business were still transmitted from the king to the council by the secretaries of state.[17] About the same time Secretary Coke says that after petitions had been presented, when the chamber was voided and the lords left in privacy, they first considered business of state or of the king's service, propounded commonly by a secretary, sometimes by command of the king, sometimes *ex officio*, though often such matters were moved by such members as first knew of them or into the cognizance of whose office such affairs were most apt to come.[18]

According to the regulations of 1628 the lord president or one of the principal secretaries of state was to make known to the council the cause of the meeting. If either of the principal secretaries had anything to deliver from the king or any "intelligence" he was to do it standing at the upper end of the board, and when he had propounded the matter resume his own place. If his majesty sent anything to be considered or if something required

[16] P. C. R., xxxviii. 1B; liv. 1.

[17] S. P. D., Charles I, viii, 31 October 1625.

[18] *Ibid.*, October 1625.

dispatch for the public, that was always to be preferred before any private matter.[19] The lord president and the secretaries, under the king, were thus preparing agenda for the council, as they did long afterwards, and as the cabinet secretaries were doing for the cabinet in 1922. In 1627 the Venetian ambassador declares that having been warned by some "confidential friends" concerning intended business which he considered inimical to the interests of Venice, "I deemed it well to see the president of the council to have the despatch of this business delayed for a few days longer." [20]

Some business doubtless was settled in the council without discussion, by mere routine procedure. It was of the very nature of such a body, however, that much involved expression of opinion and discussion. What was said in the council is not recorded in the registers, which are journals of procedure and records of business not records of debates. Many speeches and opinions are known, however, from outside sources, especially from rough notes taken by members who were present and afterwards preserved in various places, often in the miscellaneous papers of state.[21]

Difficult matters, said Secretary Coke, were decided by vote, the majority prevailing. "But this voteing, or opining falleth out but seldome in causes of great consequence, or in Arduis Regni. The usuall course is to take opinion of such as speake to it for a resolution, the rest being silent, and consequently consenting." [22] He goes on to say that when a matter had been brought before the council it was to be debated, every man speaking as he

[19] P. C. R., xxxviii. 1B; liv. 1.

[20] Letter of Contarini, 2 December 1627 (N. S.): Venetian Transcripts, xv. 665, 666.

[21] For example, *Sir Thomas Rowe his Speech at the Councell Table, touching Brasse-Mony . . . July 1640,* in *Speeches and Passages of this Great and Happy Parliament,* etc. (London, 1641), pp. 351-8.

[22] S. P. D., Charles I, viii, October 1625.

found cause. It the sense of the board was clear, resolution was accordingly taken forthwith, but if the matter was difficult, the lords would take further time for consideration, desiring a full board, and appointing a second, sometimes a third and a fourth meeting, until all had been said that was to be spoken. Then the matter was settled by vote, beginning at the lowest and ascending, the major part of the council deciding, though actually a vote had seldom to be taken.[23] This order of speaking, when a decision was being sought, had long been commended and tried, for it was believed that the lesser members would speak more freely if not under the restraint of contrary opinions already given by the greater. In 1615, when a council was considering how to pay the king's debts and how to make revenue and expenditure balance in the future, Sir Thomas Lake, one of the secretaries, spoke first, " the order being before taken that euery one should deliuer his opinion in ranke as he sate beginninge at the lower end according to the antient manner of consultation." [24] According to the regulations of 1628 whenever there was debate secrecy and freedom were to be maintained, every one to speak with respect to the other, no offence to be taken, as little discourse or repetition as possible. When a lord spoke at the board he must uncover if speaking to the council, but not if he was speaking to some one not a member.[25]

When causes were heard—in which it may be said that to some extent the council was acting as a court, though not a court of law—the respective parties might speak, the lords by questions or otherwise to inform themselves concerning the truth or the facts, but not to reveal any opinions of their own until all the testimony or information had been received. When the cause had been fully

[23] S. P. D., Charles I, viii, October 1625.
[24] S. P. D., James I, lxxxi, 28 September 1615.
[25] P. C. R., xxxviii. 1B; liv. 1.

heard, the parties thereto must retire; the lords then would debate alone. If variety of opinions continued, the members should vote severally, if this were demanded, the votes to be taken by the lord president, or in his absence by one of the secretaries of state. In voting the lowest councillor to begin to speak. The matter to be decided by majority, since each councillor had equal voice before the board. Afterwards no publication to be made by any one of how particular voices and opinions had been given.[26]

The debates, doubtless, were often interesting enough. "The counsell," says a certain one in 1616, "haue bine much busyed about the Cautionarie townes of his Maties, the maior partie of the Counsell table doe inclyne to the giuinge uppe of the townes into the states handes, my Lrd of pembroke and S^r^ thomas Lake to the houldinge of them, yt seemes his Matie is gon from hence w^th^out takinge anie resolution." [27] Bacon and Raleigh had both of them written that a king never need take advice of his council unless he wished. In 1628 a manuscript among the state papers gives the speech of Charles I when he heard that parliament had granted him five sudsidies, and also at length the speech of the duke of Buckingham on the same occasion.[28] In 1636 certain officials of the mint proposed a project for enhancing the value of the king's coins, declaring that such a thing had been done recently in France and in Spain. The affair was thoroughly discussed before the council. "It endured a long Debate, my Lord *Cottington* spake excellently well in it; in the End it was dashed, for it clearly appeared, that the King being the greatest Receiver, he would be the greatest Looser." [29]

[26] *Ibid.*, xxxviii. 2; liv. 1.

[27] Sir Horace Vere to Sir Dudley Carleton, 6 April 1616: S. P. D., James I, lxxxvi.

[28] S. P. D., Charles I, c, 4 April 1628.

[29] Rev. G. Garrard to the lord deputy, 5 April 1636: *Strafford Letters*, ii. 2.

In 1642, according to notes by Secretary Windebank, Charles announced that on the next day he would go to the north. Thereupon the general situation and military plans were discussed by the king and his principal councillors.[30] That year, when the earl of Strafford was on trial, he justified himself by saying, among other things, that " Hee alwaies submitted to the major part of the councell." [31]

Secretary Coke says that in the handling of council business precedents were much respected. He declares that matters of state were understood to be those that concerned the weal of the kingdom, the safety, honor, dignity of the king, the queen, or the prince, peace, plenty, military discipline, reformation of disorders, upholding the government, executing the laws, or whatever else had relation to the being or well-being of the state. They were of infinite latitude and extent. The resolutions of the table were to be noted by the clerk of the council attendant, he setting down the orders agreed on, drawing up the minutes of letters to be sent out, making out warrants and other commandments of the board, always subject to the direction of a secretary. According to one of the regulations of 1630 it was understood that when the king was present in council, no clerk of the council should be present, unless he were called in—except at the hearing of a public cause.[32]

Secretary Coke's memoranda go on to declare that after business of state had been dealt with, private causes were decided. First came those of the most public concern, such as regulation of trade, jurisdiction of cities, towns, corporations, companies, and the like, which had been offered to the board by way of petition. These matters were settled at the council either at once by debate and

[30] S. P. D., Charles I, cccclxiv, 16 August 1640. It may be that this meeting was of the cabinet and not of the privy council.

[31] *Verney Papers* (Camden Society, xxi), p. 32.

[32] P. C. R., xl. 154.

information given by learned counsel, or they were referred to some of the councillors—it may be observed that committees of the privy council were coming to be more and more used, or to the king's counsel at law, or to such others as might be designated, for further hearing or examination, and according to the report thus rendered the council gave its decision. Last of all came the private causes. They concerned petitions of favor and grace in respect of some service or consideration—to be recommended to some office or place, to obtain speedy justice at home or abroad, asking relief from extremity, differences between one party and another, concerning complaints or wrongs or oppression or hard measures, or disability to run the circle of the law. Such petitions were referred to be further heard or they were settled upon reading them in council, the clerk attendant entering in the register such orders as were taken, or according to the direction of the board preparing letters to be signed by the lords. In those causes which concerned the public or the king's service, a secretary of state gave orders for the letters, and they were afterwards signed by the lords.[33] Coke thought all orders and acts of the privy council, decreed at one sitting, should be read at the next meeting, to receive approbation and effect. To prevent delay, indeed, he thought that the privy council ought to have certain sittings twice a week. If that were too often, then there should at least be a committee of the council appointed to see that such work was done. This committee would take cognizance of suits brought to the council and present those proper for its notice.[34]

During a session the councillors were to keep their places at all times. If a member rose, he was to stand uncovered. If any cause was heard that concerned a privy councillor present, he was to retire when the lords came

[33] S. P. D., Charles I, viii, October 1625. [34] *Ibid.*

to consider that cause and return after decision had been given.[35]

Just before the end of the meeting the lord president, or in his absence one of the secretaries, should state what business remained unfinished, and take the resolution of the lords as to what business should begin the next meeting, unless greater things meanwhile arose.[36] With respect to the orders and commandments agreed on in the council, and sent forth in the king's name or in that of the council, it was ordained in 1630 that from time to time special care should be taken to see that they were carried out.[37]

In 1630 it was provided that if a member of a committee of the council was absent three times without giving an excuse which the committee would accept, he was to be dropped from the committee by the king's command, one of the secretaries to let the king know of such default.[38]

Business at the council—though we know from later testimony that the king and some of the members often found it dull and tedious enough—was, certainly with respect to outsiders, conducted in much solemnity and form, always with consideration of the dignity of so great a body. The council table represents the king, says Secretary Coke in 1625; hence offenders kneel at the board.[39] On one occasion a nobleman's son was called in to answer for alleged insolent and contemptuous carriage in the presence of Lord Wentworth, a member of the privy council and president of the council of the north. The young man appeared with a cudgel in his hand. Required to kneel, he made some show of obeying, but did not. It was charged that he had come insolently into the room where the lord president of the north was

[35] P. C. R., xl. 155; liv. 2.
[36] *Ibid.*, xxxviii. 3; liv. 2.
[37] *Ibid.*, xl. 155; liv. 2.
[38] *Ibid.*, xl. 155.
[39] S. P. D., Charles I, viii, October 1625.

holding a meeting, showing him no reverence, keeping himself covered, and insolently staring at his lordship. He had not seen Lord Wentworth, he averred, since he was talking with Lord Fairfax at the time. Bidden to withdraw and then recalled, he was again commanded to kneel, which this time most grudgingly he did. The lord keeper admonished: "he did not so well vnderstand himselfe, or the dignity of the Councell as hee oughto." Because of his youth he was only required to sign a statement of regret. Refusing, he was at once committed to the prison of the Gatehouse.[40] In 1637 it was ordered by the council that when any alderman or citizen of London or when any serjeants or councillors of law appeared before the board, they were to wear their gowns, or be fined.[41]

Clarendon, writing about 1646, says the excellent rules of the council board came to be less observed, and that debates, which ought to have been private, and in the absence of the party concerned, were allowed to be in public. Judgments thereupon should have been pronounced by one member of the council, without interposition of others, and without any reply allowed from the party concerned; but questions had been asked, passions discovered, opinions openly and promiscuously given. Hence, all the advice, directions, reprehensions, and censures of the council fell into less awe and esteem; so that besides the delay and interruption in despatch, often the justice and prudence of what was said in council was outweighed by the passion and infirmity of members. Suitors and culprits returned with such exceptions and arguments as prejudiced them against whatever proceeded from the council.[42]

Privy councillors were required to take the oaths of allegiance and supremacy, and also the oath of a privy

[40] P. C. R., xl, 6 April 1631.
[41] *Ibid.*, xlvii, 8, 14 March 1636-7.
[42] *History of the Rebellion*, i. 90, 91.

councillor. "This day Sr Peter Wych k^{t} Comptroller of his Maties Houshold was sworne of his Maties most honorable Privy Counsell, by his Maties Command sitting in Counsell at the Board, and tooke his place and Signed Letters." [43] When sworn of the council a new member took oath to be a faithful servant of the king. If he knew of anything harmful to the king he would withstand it and reveal it to the king or the council. In the council he would express his sincere opinion on all matters. He would keep secret all the business of the council. In all respects would he be the faithful servant and defender of the king. All this he swore before God and on the book.[44]

Of the engagements made in this oath the pledge of secrecy might have seemed the easiest to enforce. At times, undoubtedly, particular efforts were made for secrecy and even against the spreading of rumors outside. In 1612 Chamberlain says that the privy council was examining divers persons and had committed some of them close prisoners for having alleged differences at the council table between the archbishop of Canterbury and the lord privy seal, though the world marvelled such a matter should be so taken up. Presently six were fined in Star Chamber.[45] Later on he writes that two persons had by the Star Chamber been sentenced to fine, pillory, loss of ears, and whipping through the streets, for reporting that some of the privy council had implored the king to grant toleration in religion.[46] Bacon once declared that the first of the inconveniences in using counsel, was "the revealing of affayres whereby they become lesse secrett." Hence, he says, in some other countries, remedy

[43] P. C. R., liii, 3 August 1641.

[44] *Ibid.*, xxvii, fo. ii; liv. 3, 4; S. P. D., James I, cxc. 42.

[45] Chamberlain to Carleton, S. P. D., James I, lxxi, 26 November, 17 December 1612.

[46] *Ibid.*, lxxii, 13 May 1613.

had been sought in having a smaller body, a cabinet council.[47] Before this time and afterward kings were wont to restrict important matters to the knowledge of a few of their most confidential advisers, and this was indeed one of the principal reasons why a cabinet council developed in England. "I doe forbeare," wrote the secretary of state in 1617, "to communicat Sir H. Wooton's letters to the body of the counsayl vpon thease reasons that if they showld be divullged yt would make a great noice." [48] In 1623 a certain one reported, with respect to the journey of the prince and Buckingham to Spain: "I may safely and truly affirme that not one of the LL^ds of the Counsell knew of it before it was too late for them to giue their counsell (:my L^d of Buckingham excepted:) and not one of them that did not professe a great deale of apprehension when they had the first news of it." [49] At times the council sat close, with clerks excluded and no record taken. Sometimes the register is bare of account when it is certain from list of members present that a meeting of the council was held.[50]

Doubtless there was always difficulty in keeping government resolutions secret. Froissart recounts that after a great council held at Eltham in 1395, he was able to obtain detailed information about an important decision just made, as he walked with one of the councillors, Sir Richard Stury, through the arbors and walks about the hostel.[51] It is evident that during the earlier part of the

[47] Harleian MS. 5106, fo. 21.

[48] Sir Ralph Winwood to the earl of Buckingham, 5 June 1617: *H. M. C.*, 10th report, appendix, i. 100.

[49] Dudley Carleton to Sir Dudley Carleton, S. P. D., James I, cxxxviii, 27 February 1622-3.

[50] P. C. R., xxvii, 9, 13 November 1614.

[51] "Et après tout ce et en gambiant luy et moy ens ès allées à l'issue de la chambre du Roy à Eltem, je luy demanday de ce conseil, voire se dire le me pouvoit, comment il estoit conclud. Il pensa sus ma parole et demande ung petit, et puis me respondy et dist: 'oyl, ce ne sont pas choses qui facent à céler: car prochainement on les verra et orra publier

seventeenth century council business and debates in council constantly leaked out, and were as well known to foreign ambassadors and others at this time as afterwards privy council affairs were known to Pepys and to emissaries of Louis XIV. In 1614 it was said that the Spanish ambassador, who had meddled much in affairs, had bribed the servants of other ambassadors, servants of the king and servants of the lords of the privy council.[52] In 1623 the Venetian ambassador wrote to his government, as of an unusual occurrence, that he had not been able to learn what was transacted at a close council recently held.[53] A few days after, however, the French ambassador believed that he knew what the councillors were doing and saying: although great penalties had been pronounced and high oaths of secrecy imposed, he had penetrated what was being done.[54] The same ambassador,

partout' . . . Je me suis delité à vous monstrer au long le procès de ces matières dessus dittes et proposées pour vous mieulx infourmer de la vérité, et pour tant que je acteur de ces histoires y estoie présent. Et toutes les parties qui sont icy-dessus contenues, celluy vaillant chevallier anchien messire Richard Stury les me dist et racompta mot à mot en gambiant les galleries de l'ostel à Eltem où il faisoit moult bel et moult plaisant et umbru, car icelles galleries pour lors estoient toutes couvertes de vignes." Froissart, *Chroniques* (ed. de Lettenhove), xv. 157, 158, 166, 167.

[52] Archbishop of Canterbury to Sir Dudley Carleton, letter partly in cipher: S. P. D., James I, lxxvi, 16 March 1613-14.

[53] "A Tibols dove S. M^{ta} migliorata, era venuta, si tenne due volte il consig^{io} ristretto, con l'intervenuto del Re et del Prencipe, quello che si trattasse resta pur guardato, con estraordinaria segretezza." Letter of Alvise Vallaresso, 24 November 1623 (N. S.): Venetian Transcripts, xii. 6.

[54] "Pour ce qui regard l'effect des Conseilz longs et continus qui se tiennent en ceste ville, toujours en présence du Prince de Galles et quelque fois devant le Roy, son père, encores qu'il y ayt de grandes peynes à qui les descouvrira et de grands sermens tendans à les céler, J'ay néantmoins pénétré, ce qui fait que de douze que ils sont, cinq aident à la lascheté de leur Maistre et au party d'Espagne . . . Les autres qui tiennent le party du Prince de Galles et soubtiennent l'honneur d'Angleterre sont" . . . Letter of M. de Tillières, 21 December 1623 (N. S.): Transcripts from Paris, lvii. 271.

in a memoir written that year, reported that he had gained one of the clerks of the council who would give him a copy of all important council doings.[55] Contarini, the Venetian, reported, with unconscious irony it may be, that recent sittings of the privy council had been held with extraordinary secrecy, especially a council of the night before, at which it was finally decided to summon the parliament.[56] Certain other things "were communicated to me with the greatest secrecy by a member of the council, although they were all enjoined to keep the strictest silence about it." [57] In 1639, by the king's command, Secretary Coke sent to the privy council the questions propounded to Lords Say and Brooke, with their answers, asking that they be read at the board and registered in the book of the council. The councillors replied it was not conceived to be for the king's service to have them registered; the originals had been delivered to Secretary Windebank to be safely and secretly preserved; they might be registered later if the king commanded. A week later Coke replied that the king was content that no entry be made.[58] "Sure he could never be a good Privy Counsellor; for he tells all that he ever knew or did," is the comment of a contemporary on Windebank after he had fled to Paris in 1641.[59]

Writing and routine were carried on for the council by secretaries of the council or clerks. As was the case with privy councillors, clerks were sworn, there being a particular council oath for them.[60] In 1613 there were three

[55] "Nous avons trouvé moyen de gaigner un des Secrétaires du Conseil qui me donnera copie de tout ce qui s'y passera d'important: je vous en envoye un échantillon de sa bonne volonté." Transcripts from Paris, lvii. 286.

[56] Letter of Alvise Contarini, 10 February 1628 (N. S.): Venetian Transcripts, xv. 951.

[57] *Ibid.*, fo. 986.

[58] S. P. D., Charles I, ccccxx, 5, 11 May 1639.

[59] William Aylesbury to Edward Hyde, 8-18 January 1640-1: *Clarendon State Papers*, ii. 134.

[60] P. C. R., xxvii, fo. ii.

clerks of the council.[61] In addition that year two others were sworn "Clerkes of the Councell extraordinary."[62] In 1617 there were four clerks of the council.[63] In 1625 Caesar says that the council was attended by three or more clerks to await orders, and to write such letters or answers as their lordships might give to petitions delivered at the table or sent thither by the king, and whatever other things their lordships might command them to write.[64] A clerk of the privy council attendant was to be present at all meetings of the council, says Secretary Coke, waiting upon the board, unless the lords wished to do business privately. Often the lords employed a clerk upon a message or to draw up some despatch, and while he was absent had occasion for the services of another clerk to attend on the board for reading bills, letters, and other things. Hence it was thought necessary that two clerks should attend each meeting. Clerks were to serve a month at a time. One about to serve should attend a week before to learn the particular routine and business of the time. One about to leave should continue a week beyond his month to instruct his successor.[65] By the regulations of 1628 it was ordered that no more than two clerks should be in the council chamber at the same time, whereof one was to be the clerk whose month it was, the other the clerk of the month preceding, to wait with him for the first week at least; and the clerk that was to wait the following month should give his attendance for at least a week before his waiting month began, that he might acquaint himself with current council business against the coming of his own turn to wait. Clerks extraordinary of the council were not to come in unless they were specially called.[66] When the king was in council

[61] P. C. R., xxvii, fo. i.
[62] *Ibid.*, xxix. 1.
[63] *Ibid.*, 22 July 1613.
[64] S. P. D., Charles I, viii, 31 October 1625.
[65] *Ibid.*, October 1625.
[66] P. C. R., xxxviii. 3; liv. 2.

no clerk might be present, unless called, except at the hearing of a public cause.[67]

In 1614 it had been ordered that all suitors should deliver their petitions at the board, as soon as the lords were seated in council. Then the clerk of the council attendant was to take them at once. Afterwards he must attend the secretary with them, at the secretary's next convenience. The secretary having perused them might, according to the nature of each petition, direct the clerk what to do, that it might be offered to the council to be signed, or, if a matter of importance, that he himself might acquaint the board with it at their next sitting.[68] The regulations of 1628 provided that upon the petitions of suitors the clerk of the council then serving should note when the petitions were exhibited, so that the lords might see in what order suitors stood: in accordance therewith and with respect to other considerations should petitions be dispatched. Respect was to be had to poor petitioners, they not to be wearied out with long attendance.[69]

In 1630 it was ordained that when an order was agreed on, the clerk should write it out and read it to the board, so that any mistake might be amended. Afterwards, when he had drawn up the order at large, in any case of importance before entering the order in the council book and before delivering it to the person concerned, he was to show the draft to the lord president, or in his absence to a secretary of state, who was to allow it and sign it.[70] Next year it was provided that a clerk was to enter all orders within a week, all letters within two weeks of the end of his period of attendance. Since orders and letters might not be at once fetched away by those concerned, it was ruled that copies might be given, and when

[67] *Ibid.*, xl. 154.
[68] *Ibid.*, xxvii, 21 October 1614.
[69] *Ibid.*, xxxvii. 2; liv. 1.
[70] *Ibid.*, xl. 154; liv. 2.

given should be made out and signed by the clerk in whose month they passed, and not otherwise.[71] In 1638 the council commanded that thenceforth no order of importance concerning the king's service, and no order which crossed, revoked, or annihilated any former order or direction of the board, should be issued by any of the clerks of the council until it had been first read and approved at the board.[72]

In general during this period, the matters dealt with in privy council were often thought of as "causes"—a term which would seem primarily to denote matters dealt with by the council acting as a court, but apparently used also to refer to council business of any kind. This is evident in the usual appellation of the council record as a register of council causes. The results of the work of the council—the decisions, the determinations, the communications, the orders, the ordinances or general regulations—were conceived as of *acta*, things done, from which came the appellation more frequently used to denote council work as time went on and the title generally prefixed to modern printed collections of council records. In 1453, at a meeting of the council, the lords commanded a decision "to be enacted amonge th' actes of the Counsaill." [73] In 1533 a paper of minutes of orders by the council is entitled "Acta in Consilio Domini Regis." [74]

Decisions, orders, letters, communications went variously out from the council. They were supposed to be signed by some or all of the councillors present at the meeting where they were despatched. They might or might not be sealed.

It would appear that there was at this time no set or well-defined regulation about signing, but it seems to have been desired that the papers should be signed by

[71] P. C. R., xli, 31 October 1631. [72] *Ibid.*, xlix, 27 May 1638.
[73] Patent Roll, 32 Henry VI, membrane 20: *Paston Letters* (ed. Gairdner), i. 337. [74] *S. P., Henry VIII,* I. ii. 414, 415.

the members responsible for them. Many council papers are subscribed with the signatures of a considerable number of the council. At times, in the absence of other records, some light on attendance at privy council can be had from councillors' names signed under particular dates. Apparently the signing and reading of such papers was an onerous duty, and there is reason to think it occupied much of the time of some councillors between meetings of the council. In 1623 rumor had it the earl of Arundel would be sent to the Tower: "he signeth lres done at the Board if they be brought to him but cometh not so frequent to Councell as he used." [75]

Council papers went out, it would seem, under one seal or another, and also without seal. Some acts of council, such as proclamations, were issued under the great seal; others under privy seal or signet. In addition, there was a seal of the privy council, as at present. There is considerable obscurity about the council seal. The minute regulations about council procedure have little or nothing about it. The records of the council themselves give scant information since they did not, of course, come under the seal. Accordingly, besides various allusions, reliance must be put much less upon investigation at the center of council activity in the privy council records and state papers than among the actual orders and communications sent out to the periphery of the council's power, some of them to be found now in colonial archives, in scattered libraries, and in private collections of papers.

In 1554 it was ordered in council that "all matters of Estate" passing in the king and the queen's names should be signed by them both, and that a "stampe" should be made in both their names to be used "for the

[75] Thomas Locke to Sir Dudley Carleton, 26 December 1623: S. P. D., James I, clvi.

stamping of suche matiers as shulde be requisite." [76] A year later it was resolved in the council their majesties should be moved that "a Seale shulde be made with thiese letters P. and M., with a Crowne over the same, with which Seale all lettres passing this Boorde shuld be sealed, and the same to remayne in the custodie of theldest Clerc of the Counsaill." [77] In 1558 letters from the council to three noblemen were ordered to be packeted and sealed with "The Counsell Seale." [78] In 1573 the council ordered a warrant to the treasurer of the chamber to pay the clerks of the council the cost of two seals for their office.[79] A year later a letter from the privy council of England to the regent of Scotland was signed by six of the councillors and sealed with the seal of the council.[80] In 1578 a bag of evidence about Cornish papists was ordered sent out "sealed with the Counsell Seale." [81] In 1596 a certain one wrote from the Fleet to the lord keeper offering to appear and give information about a plot to counterfeit the council seal.[82] In 1614 the council issued a warrant for £4. 12. 0 to the graver of the king's seals to make a brass council seal for Francis Cottington, one of the clerks of the council.[83]

Council papers show variety of usage. In 1600 a communication from the council to a certain one who was commanded to provide military service had eight signatures and the signet.[84] A year later a communication to the commissioners in Derbyshire for assessment of the first subsidy and fifteenth granted by parliament had the

[76] *A. P. C.*, v. 53. Mr. R. E. Moody, one of my graduate students at Yale University, directed my notice to the data contained in this paragraph.

[77] *Ibid.*, p. 130. [78] *Ibid.*, vi. 261.

[79] *A. P. C.*, viii. 101.

[80] *Register of the Privy Council of Scotland*, I. xiv. 332.

[81] *A. P. C.*, x. 261. [82] *Calendar S. P. Dom., 1595-1597*, p. 185.

[83] *A. P. C.*, xxxiii. 663.

[84] *Rutland MSS., H. M. C.*, 12th report, appendix, iv. 361.

signatures of twelve councillors merely.[85] In 1602 an order bore ten signatures and signet.[86] A year later a council letter had ten signatures.[87] In 1607 a communication to the earl of Shrewsbury, lord lieutenant of Derbyshire, ordering him to suppress unlawful assemblies, had thirteen signatures and the signet.[88] In 1618 a communication to the lord lieutenant of Lincolnshire, ordering him to hold a view of the forces, went with eighteen signatures.[89] In 1631 a license of the council to a convicted recusant permitting him to travel five miles from his dwelling house had six signatures and seal.[90]

Various records of the privy council are to be found in numerous privy council papers preserved in the privy council office and many manuscripts scattered through papers of the secretaries of state in the various collections of state papers.[91] The formal record is in the series of volumes of the register of the privy council. According to Sir Julius Caesar, writing in 1625, it had always been the custom of the privy council that a "greate faire paperbooke" should be provided, in which all the orders of the council should be written, along with copies of council letters and whatsoever else the lords might ordain. This book was to be kept by one called the keeper of the council chest, preserving the records thus for the lords of the council, whenever they might wish to have them. In the register there is rarely if ever account of debate, but merely formal record of routine business, mostly entries of minutes of letters that were written or resolutions or orders or notes of warrants or passes issued or petitions received and the action taken thereupon. All-important and generally definitive as this

[85] *Ibid.*, p. 382.
[86] *Ibid.*, p. 383.
[87] *Ibid.*, p. 387.
[88] *Ibid.*, p. 405.
[89] *Ibid.*, p. 454.
[90] *Le Fleming MSS., H. M. C.*, 12th report, appendix, vii. 16.
[91] For example, minutes of privy council business with the names of the members present are scattered about in S. P. D., James I, cxxvii.

record is as a rule it is lifeless and bare, and has constantly to be supplemented by the richer but more fragmentary and scattered papers of the clerks of the council, the records or notes left by officials or members of the council, and above all by the numerous papers of the secretaries of state, usually so active and important in so many of the affairs of the council.

The folio volumes of the so-called register are given different titles by those who compiled them. Frequently a volume is denoted a "Register of Counsell Causes." [92] Altogether during the earlier period this is the predominant title. The volumes are no mere record of causes before the council as a court, however. This is recognized in other denominations, as when the entry of appearance of one who had by the council been summoned to appear is made in "this Register of Councell," though a similar entry a little later in the same volume is described as being entered in "this Register of Councell Causes." [93] A little later the appearance of two butchers who had been summoned "is heere entred in this Register Booke of Councell." [94] What is nowadays listed as volume thirty-nine of the register was called by a contemporary "The 11th Councell Booke." [95] In 1624 a report of the commissioners for trade was read at the board and approved, "And commandemt giuen to enter it in the Register of Counsell causes, & to remaine as an Act of Counsell." [96]

The series of volumes of the register is complete for the seventeenth and eighteenth centuries save for one void. In 1619 old Whitehall Palace was destroyed by fire, and many of the records of the government perished. There is "A list of the Councell Bookes that were Extant the .12. of January .1618. and how many of them perished

[92] P. C. R., xxviii, 24 March 1615-16.
[93] *Ibid.*, xxvii, 1 October 1614, 3 January 1614-15.
[94] *Ibid.*, xxviii, 2 March 1615-16.
[95] *Ibid.*, xxxix. 839.
[96] *Ibid.*, xxxii, 3 July 1624.

the same day when the Banquetting howse at Whitehall was burnt, the said Bookes being kept in two Chambers there." [97] According to this list, practically all of the council records from 1544 to 1613 were destroyed. Doubtless the clerk of the council who made this memorandum did not know what he had when he drew up the list or exactly what had been destroyed in the fire. Some years later Sir Julius Caesar wrote that at the end of Elizabeth's reign there were no longer any council books more ancient than 36 Henry VIII, and he went on to say that many books also had perished in the conflagration of the time of James I.[98]

Some efforts were presently made to recover what seemed to be lost. In 1636 the privy council dispatched a letter to the countess dowager of Exeter, saying it was understood that her ladyship had divers copies of privy council records lost in the Whitehall fire, concerning military discipline and other public affairs. She was asked to deliver them to the clerk of the council.[99] It is well known that government records in England were not preserved as carefully then as later, officials looking upon many of them as their own property and taking them off when their tenure of office had ceased, while others carelessly took what they had no right to possess. In 1630 a letter of the council was sent to the earl of Marlborough, saying that his father—he had died more than a year before this—had borrowed of the keeper of the council records one of the council books, and that this had never been restored. The council prayed and required the earl to cause it to be looked for and sent to the board as quickly as possible, because it was needed.[100] In 1636 the council asked the earl of Portland to deliver up all surveys, certificates, and manuscripts relating to the king's service, that had been in the possession of

[97] *Ibid.*, xxx. 86. [98] S. P. D., Charles I, viii, 31 October 1625.
[99] P. C. R., xlvi, 19 June 1636. [100] *Ibid.*, xxxix, 26 May 1630.

his father, the late lord treasurer.[101] In 1639 the clerk of the council wrote to a certain Mrs. Careis. The king understood that she had some manuscripts of her father, formerly a clerk of the council, especially one great book containing letters of the privy council, the originals whereof had been burned in the Whitehall fire. The king desired her to send them to a clerk or to one of the secretaries of state.[102]

In 1840 when another survey was made some of the missing register volumes had already been noted as in the *Record Office*, and at present, with two or three serious gaps there is a complete series of the volumes of the council from 1540 to 1602. What has never been filled, however, is the entire blank in the record from 2 January 1601-2 to 1 May 1613; and it would seem now hopeless to discover any register volumes of the council record for this period.

Record of business transacted in council was made by the clerk in attendance.[103] The regulations of the privy council in 1630 provided that when any order of the council was agreed on, the clerk of the council attending should write it down, and presently read openly how he had conceived the sense of the board, so that any mistake might be corrected at once. After the clerk had drawn up the order at large, if it concerned any cause of importance, he was to show the draft to the lord president, or, in his absence, to one of the secretaries of state, to be allowed and signed under one of their hands, before he entered the same in the council book or delivered it to whom it might concern.[104]

[101] P. C. R., xlvi, 19 June 1636.

[102] Edward Nicholas's Letterbook: S. P. D., James I, ccxv. 177.

[103] For a meeting at Westminster in 1537, in the handwriting of Paget, clerk of the council, there is a paper of "The matiers treated in Counsaill, at Westminster, the 3de daye of April, anno 28": *S. P., Henry VIII*, I. ii. 545.

[104] P. C. R., xl. 154.

The structure of the council register is to some extent conditioned by the succession of clerks. Since each clerk attended the board for a month, the registers are often divided into months by beginning a new month on a fresh sheet, sometimes leaving a side or more blank. In 1632 it was ordered that "the Counsell Booke of everie moneth" should be by the clerk attending for that month. The title of every order must be entered in the margin—generally not done in earlier years—and an index of the whole book entered at the end. It may be said that the indexes that were afterward made were surprisingly good. It was also prescribed that each clerk at the end of his term of waiting should enter under the title of every order what return was made or what had been done, or what still remained unfulfilled or unanswered. At the end of his waiting he was to bring "the Booke" to the board that it might appear whether these regulations had been complied with. And it was further ordered that the clerks should divide among them the former books of the council, which had not been thus perfected, and with them do likewise. Fit compensation to be given for this.[105] The student now notices that the volumes of council records before this year often have marginal notes in a hand different from that of the text.

It is evident that the register volumes of the privy council are the result of many primary and original records, and are in that sense not original sources themselves. They were fair, perhaps elaborated, and often amended copies of such papers as the clerks of the privy council took down in the midst of the council business and of such notes as the secretaries of state and other officials who were present cared to make. Many of these papers are extant, and some of them possess much interest. In March 1635 there are numerous rough notes concerning meetings of the privy council, lists of members

[105] *Ibid.*, xli, 13 April 1632.

present at meetings, and of matters transacted in council. They are by Edward Nicholas, clerk of the council, and many of them are contained in his "Note booke" for the month. There are more like them by Nicholas for September 1636.[106] For May 1637 there is a so-called "Session Book" giving details about fourteen meetings of the council.[107] From notes and other materials of this sort the clerks apparently wrote out their extended record. In 1640 there are notes by Secretary Windebank of proceedings in the privy council, with a list of those present at the top.[108] These notes and others similar were doubtless made for personal use and private convenience, like the numerous cabinet "minutes" to be found a century later. Sometimes, at least, the clerk's record was copied into the register by his own secretary.[109]

It is certain that the record in the register as we have it now is not in all cases what the clerk wrote out when he compiled his extended draft. In volume 43 of the register of the council, folio sides 125-8, or according to an earlier numeration, leaves 61 and 62 are missing. On side 124 is the note: "The two leaues ensewing, conteyning a letter to his M^tie, concerning the proceedings wth the Bishop of Chester, were by his M^ties comand, signified by Mr Secretary Windebank, cut out of the booke."[110] But there is no evidence whatever that any leaves ever were cut out of this volume in the place in question. Apparently the clerk wrote out the record in full from his notes and papers. From the record so written an excision was ordered and noted. Afterwards he copied this version including the then superfluous note in a great volume as the permanent record. In 1856 among the papers relating

[106] S. P. D., Charles I, cccxv. 3, 4; cccxxxii. 61, 62.
[107] *Ibid.*, ccclvii. 159.
[108] *Ibid.*, ccccxlvii, 11 March 1639-40.
[109] P. C. R., xxxviii, 11 March 1627-8; xxxix, fo. at the beginning: see E. R. Adair, "The Privy Council Registers," *E. H. R.*, xxx. 703 (October, 1915).
[110] P. C. R., xliii. 124.

to trade and plantations were found four leaves endorsed "Virginia Tobacco", but containing also other matters. The form of the record embodied in them was just like what appears in the register of the council, but the sheets of paper were of a different size. They were evidently the preliminary draft of the clerk of the council, and they are now inserted at the proper place in the register of the council.[111]

In general the method followed in keeping the record is clear, but from time to time some reason for doubt may arise. In the case of close councils where great secrecy was wished for, there is no other record of the meeting than the list of those who were present, and it may be that in other cases there is no record in the register at all. On the other hand a note in the register for 1633 says that "This day his Ma^ty sitting in Counsell" expressed his pleasure in a certain matter; but no list of those present at such a meeting is prefixed, and ordinarily it would not have been apparent that any privy council business was transacted that day in a meeting of the council.[112] On another occasion a report of the commissioners of trade was read at the board and afterwards approved by the king in council at Wanstead. The lord president commanded that it be entered in the register of the council causes and remain an act of the council. Actually it follows an entry under July 10, but a marginal note declares: "This shoulde haue beene entred as the thirde, but there was no sessions & therfore necessity constrained y^t omittance."[113] This suggests that when the council was divided—on such occasions as when some of the councillors were away with the king while others remained at Whitehall, there may not be record in the register of all the business done by the councillors not sitting at Whitehall.

[111] *Ibid.*, lii. 680a-680h.
[112] *Ibid.*, xlii. 25 March 1633.
[113] *Ibid.*, xxxii, 10 July 1624.

CHAPTER VI

THE WORK OF THE PRIVY COUNCIL 1603–1645

TO UNDERSTAND the work of the English privy council in the seventeenth century there is no better point of departure than a saying of the astute Spanish ambassador, Gondomar. In 1613, just after arriving in England, he wrote: "In this kingdom there is only one council in which all matters are dealt with."[1] In France and in England the general tendency of conciliar development through a long course of time had been for a single group of great councillors to assist and advise the king. Numerous smaller bodies or groups had in course of time been detached from the principal body; yet the smaller ones had for a long while easily merged back into the parent body, then remained subsidiary to it, or finally become distinct bodies dealing with a small category of specialized business. Meanwhile the principal council had remained as before the great central executive, administrative, and advisory body assistant to the king and under him dealing with almost all affairs of government that lay within royal jurisdiction.

In Spain in the sixteenth and seventeenth centuries there was no large conciliar body like the privy council of England or like the *conseil privé* or *conseil d'état* in France. In Spain the functions of the central government were distributed among a number of small councils which worked separately under the king. In the time of Philip

[1] "En este Reyno no ay mas que un Consejo y en el se tratan todas las materias." Letter of Don Diego Sarmiento to the king of Spain, 6 September 1613 (N. S.): Spanish Transcripts, II, iii.

II there were twelve such councils: the council of Castile, most important of them all, with functions mainly judicial; the *camera* or chamber, originally a committee of the council of Castile; the council of Aragon; the council of Italy; the council of Flanders; the council of Portugal—after that country had been conquered; the council of the Indies, for administration of colonial possessions; the council of state, to deal with foreign affairs; the council of war; the council of the inquisition; the *hazienda,* which dealt with finance; and the council of the orders, which dealt with the affairs of the great military orders, then under the king.[2] All of these councils were directly subordinate to the crown and each one of them confined its activities especially to the business for which it was established. It is well known that Philip II attended to a great deal of business himself in his own chamber, causing directions to be taken by his secretary to the council concerned. In 1623 an English writer describing the government of Spain spoke of the council of state, which he said was the most prominent, and, in addition, of the councils of Castile, of Aragon, of Portugal, of Italy, of the military orders, of the Indies, of the treasury, and of the exchequer.[3]

In the England of Elizabeth, James I, and Charles I, the business of the central government was mostly carried on by the monarch with the assistance of the one privy council. There were other councils—such as the council of the north and the council of Wales—but they were directly subordinate to the privy council. Within the privy council itself there came to be various smaller groups or com-

[2] "Sommario dell'ordine che se tiene alla corte di Spagna circa il governo delli stati del re catolico," cited in Ranke. *Fürsten und Völker von Süd-Europa,* etc. (Berlin, 1837), i. 152; also E. R. Turner, *Europe, 1450-1789,* p. 336.

[3] *A True Relation . . . of the . . . Entertainment, Giuen to . . . Prince Charles . . . at Madrid* (1623), in S. P. D., James I, cxliii. 96.

mittees, some of which dealt with business handled in Spain by small particular councils, while others in course of time were seen to be a phase of the development of the great departments of government through which later on the work of managing England was largely carried on. For the most part, however, as will be shown, these committees of the council were not standing bodies of permanent existence with jurisdiction and duties sharply defined. They easily disappeared; they easily coalesced one with another; most of them vanished back into the larger body from which they had emerged. Development in Spain had been towards the establishment of several small councils distinctly defined, each having separate jurisdiction under the king. Very different was the development of committees of the council in England. On the one hand it was toward a general merging, so that by the beginning of the eighteenth century all committees of the privy council were as a rule merely aspects of the one committee of the whole privy council. On the other hand a particular committee of the privy council, which had during the first half of the seventeenth century been instituted to deal with foreign affairs, extended its jurisdiction until it dealt with important affairs of all kinds. From within the constantly enlarging body of the privy council it presently came forth as a small council of the most important and powerful members of the privy council. At the beginning of the eighteenth century it was much like the privy council itself a century before, except that in the course of that time the power of the monarch had been constantly abated, so that in the government of the state now the cabinet had an importance and power that the privy council had never possessed. For exposition at this point, however, the important matter to be noted is that the smaller body gradually emerging from the larger council was not a group of councillors with

activities restricted to some particular sort of business, however important, but, like the parent organism, a council that dealt with government in all its phases and aspects. So in England there continued to be throughout this time what Gondomar observed in the system under James I—one council that managed all the important matters of government and state.

Hence, it is not easy to describe the work of the privy council. Its activities were so numerous, with infinitude of variety and detail, that one might almost be tempted to the device of those who would describe the duties of the justice of the peace under alphabet letters. If a great deal of the council business is reduced to a few categories of matters dealt with that appear to the student to be related to each other, the reader might see artificial simplicity created thus for the sake of criticism and study, a result that would doubtless have seemed doctrinaire to councillors of the seventeenth century, something, indeed, different from the first impressions of the student who reads the minutes of meetings of the council and observes the variety and multitude of details that councillors had to do with a long time ago.

Generally speaking, the functions of the privy council were advisory and administrative. Within the executive or administrative field the principal divisions, perhaps, would concern foreign business and domestic affairs. The domestic matters dealt with were various and many. The whole council then was concerned not only with general supervision of affairs, but also with the actual administration of numerous details later on completely taken over by different departments of the executive portion of the government. It is not necessary here to assert that at the beginning of the seventeenth century in most cases only rudiments of departments existed, and that their development was the result of slow growth in

the period ensuing. At this time, therefore, the privy council concerned itself particularly with matters relating to revenue, taxation, and finance, with the army, with the navy, with ecclesiastical affairs, with trade, with colonies or plantations, with industry and commerce, with general and unremitting supervision of local government, and with the issuing of passes and licenses to travel. It was also busied with considering a vast number of petitions and hearing a multitude of disputes and causes, under a jurisdiction that represented the original and also the ultimate judicial authority of the king, in the exercise of which the council was in effect a primitive court and also a high court of justice, something like the court of a king in the ninth or tenth century and something like equity in its beginning. In this capacity it was a body in which a great deal of extra-law judicial work was determined. All this was in addition to the specifically judicial work performed by the council when it sat as the court of Star Chamber.

The original and primary function of the king's council was the giving of advice to the king. Of this there always continued to be much, though the records of the council, which generally contain no debates, naturally reveal less of it than they do of the routine of executive and administrative functions. Furthermore, advice upon the more important matters about which the king sought counsel had always been taken from a few of his abler and more trusted assistants, and during the seventeenth century was largely given by the members of the committee for foreign affairs, the select part of the privy council, which gradually became known as the cabinet council. From one point of view all that the council did was the outcome of its advice to the king or of the best wisdom it could use in his service. Sometimes, however, the work of the council was essentially the giving of advice or opinion,

in respect of general policy or some affair too unusual to be like any ordinary business of the council.

In 1616 a letter signed by six of the councillors was sent to Sir Walter Raleigh: [4]

> His Matie out of his gratious inclination towards yo^w, being pleased to release yo^w of yor ymprisonm^t in the Tower to goe abroade wth a Keeper to make yor provision for yor intended voyage, wee thinke good to admonishe yo^w (though wee do not prejudicate yor owne discretion so much, as to thinke that yo^w would attempt it w^thout leaue) that yo^w should not presume to report either to his Ma^ts Court, the Queenes, or Princes, nor goe into any publique assemblies whereso-ever, w^thout espetiall licence obtayned from his Matie for yor warrant, But onely that yo^w use the benefitt of his Ma^ts grace to followe the businesse wch yo^w are to undertake, And for wch upon yor humble request his Matie hath beene gratiously pleased to graunt yo^w that freedome.

In June of that year the king held a privy council with the archbishop of Canterbury and sixteen others at Whitehall. He had specially commanded this council to be held, and he ordered the twelve judges to be present. He desired advice concerning the king's right to grant letters in commendam—the granting of benefices to be held, supposedly in trust, but actually with receipt of revenue and without performance of the duties, a practice to which John Selden adverted so severely. James stated what his previous proceedings had been. The legal arguments presented against his right to grant were explained. He declared that he had ordered the judges to postpone their verdict, they had refused. He then censured the form and the substance of their letter to him. Following his statement the judges all fell on their knees to beg

[4] P. C. R., xxviii, 19 March 1615-16.

pardon. After further discussion each one was asked whether he would obey, if in future similar mandates came from the king. All promised excepting Lord Chief Justice Coke: "Hee would doe what would bee fitt for a Judge to doe." After more lecturing of the judges James dismissed them. Then he asked the opinion of the privy council. All expressed approval of what he had done.[5]

In March 1625, as soon as the members of Charles I's privy council had been sworn, they met to confer about the most important and pressing matters for his majesty's service, concerning which it would be well to advise him. They decided that a proclamation should go out into the shires in the new king's name. There should be commissions authorizing the great seal, the privy seal, and the signet until new commissions were issued. There should be new commissions and patents authorizing judges, justices of the peace, sheriffs, and other such officials to carry on their work. A general proclamation should go forth for the continuation of proceedings to preserve the peace, administer justice, and for the government of the state "as was 1mo Jacobi." That English ambassadors with foreign princes should have letters authorizing their services to the new king. That special messengers should be sent out to foreign princes. Proclamations like those given in England should be sent into Scotland. Commissions for the deputy and officers in Ireland should be renewed. That work at the mint should go on, all things to be managed by the officers there as they then stood, until the king's further pleasure was known. That a new parliament be summoned at such time as Charles might appoint. That the council ascertain when the king wished to retire to the Tower of London; when the late king's funeral should be held; where the

[5] S. P. D., James I, lxxxvii, 6 June 1616.

body should rest in the mean time; what was the king's pleasure concerning the time of his coronation. All of these counsels were sanctioned by the king when communicated to him.[6] In 1626 the Venetian ambassador wrote: "the very important affair of the French attendants is occupying the privy council." [7]

Generally speaking, the conduct of foreign affairs was not one of the principal functions of the privy council, for diplomacy and management of foreign relations were jealously guarded by the sovereign, and were revealed in most cases only to a small group of his most important and trustiest servants. So it had been under Elizabeth; so it continued with James I and with Charles I; and so it was in times still later. In 1563 Elizabeth, writing to the earl of Warwick, about the English troops in Normandy, said that for the sake of secrecy " we have herin delt but with a certen nombre of our pryncipall and trustyest counsellors." [8] Often James I ruled without any great consideration for his council, following his own ideas rather than their advice. After all, the function of the council was merely to assist the king, and generally the monarch strove to keep to himself and within his own power the most important and most secret governmental work. The weightier part of diplomacy and the control of foreign affairs James retained for a long time almost entirely to himself, assisted only by his secretaries, apart from his council, except on unusual occasions of emergency, trouble or stress. To a considerable extent in his reign the highest things in the rule of the realm, most of what related to his policy and his plans, the *arcana imperii,* were at first known only to himself and his par-

[6] P. C. R., xxxiii, 28 March 1625.

[7] Letter of Alvise Contarini, 25 September 1626 (N.S.): Venetian Transcripts, xiii. 52.

[8] Patrick Forbes, *A Full View of the Public Transactions in the Reign of Q. Elizabeth,* etc. (London, 1741), ii. 326.

ticular favorite at the time, or at most only to a small group of confidants around him. As long as Buckingham lived this was likewise so with Charles I; and afterwards in that monarch's dealings with his committee of foreign affairs it was so to a lesser extent. All of this has to do particularly with the origin of the cabinet council; but it also relates to the privy council from which foreign business was largely withheld.

James was often away from London, at Newmarket, Greenwich, Royston, or elsewhere. At times he had some of his councillors with him. Usually a secretary of state was at hand. In 1613 the Spanish ambassador is said to have related that the king resolved all important business with Viscount Rochester alone, and that there were many matters with which the council was never acquainted.[9] During much of the reign of James I administration and policy were largely in the hands of the king and some favorite or some minister who was all-important. Buckingham held such power as long as he lived. In 1604 the French ambassador declared that James was governed entirely by the counsel of Cecil.[10] In 1611 the Venetian ambassador reported that the king often did his most important business apart with three or four Scots.[11] Two years later the French ambassador wrote that the archbishop of Canterbury and other "principal ministers" had chief part in the king's affairs.[12] In 1614 Gondomar said that three councillors governed all for the king.[13]

None the less, the privy council at this time had some part in foreign affairs, and if generally it concerned

[9] State Papers, Foreign, Spain, xx, 22 September 1613.

[10] Transcripts from Paris, xxxviii. 216.

[11] *Relazioni degli Stati Europei,* IV. i. 121.

[12] Transcripts from Paris, xlvii. 175.

[13] "El almirante y el Conde de Nortanton y el de Sufole que son los que gouiernan la maquina de aqui." Don Diego Sarmiento to the captain general of Milan, 12 June 1614 (N.S.): Spanish Transcripts, II. v. 138.

routine and the less important things in foreign relations, yet sometimes that part has interest enough. About 1603 councillors gave the king their opinion as to sending of aid to the Dutch.[14] In 1605 the French ambassador wrote that he had conferred with the lords of the council about obtaining justice for the great number of poor French merchants unable to get it for many years past. The king of England expressed good will and desired to do justice.[15] In 1610 the privy council of England wrote to the privy council of Scotland that the recent murder—of Henry IV—should excite the greatest vigilance for the safety of their royal master.[16] In 1614, when there was the question of the marriage of the king's son with a princess of France, Gondomar says that the king summoned a council, calling all the members who could possibly attend, and made a long statement of the case, "as to his council and the rulers of this kingdom." He asked them to consider, then give their best advice irrespective of his own inclination. He laid before them correspondence and documents, then left them to themselves.[17] Some months later he called all his councillors to meet

[14] "The Arguments of two of the Privy Councill vnto King James the 1st imediatly after his coming to the Crowne of England Touching sending aid to the Vnited Provinces." Sloane MS. 1435, fos. 144-155.

[15] "Je me suis trouvé avecq Messieurs du Conseil ainsy que je vous avois escript devoir faire par ma dernière du xxviiie affin d'y procurer la justice pour une infinité de pauvres marchands qui ne la peuvent obtenir depuis plusieurs années. D'abord le Sieur de Cramborne prenant la parolle pour tout me fist entendre qu'en l' absence du Roy ils avoient désiré conférer avecq moy." Beaumont to Villeroy, 12 March 1605 (N. S.): Transcripts from Paris, xl. 53.

[16] S. P. D., James I, lvi, 29 July 1610.

[17] "El Rey voluio ayer a juntar el Consejo, Mando que se hallasen en el hasta los muy impedidos y el Principe su hijo. Hizóles una muy larga platica diciendoles que a ellos tocaua principalmente esta causa como a su Consejo y gobernadores deste Reyno . . . Con esto se volvio el Rey esta mañana a Roston a su casa y el Consejo se ha juntado oy a tratar destas materias." Don Diego Sarmiento to the king of Spain, 17 February 1614 (N. S.): Spanish Transcripts, II. vi. 64.

him at Hampton Court, and giving them an account of certain matters asked whether they advised a declaration of war on Spain.[18] In 1616 instructions signed by fifteen councillors were sent to the governor of Flushing, bidding him surrender that and other places to the United Provinces.[19] Certain English merchants wrote to Secretary Winwood about property of theirs confiscated in Lisbon: the privy council at once sent a letter concerning this to the English agent in Spain.[20] In 1617 Secretary Lake told the Venetian ambassador that the king would try to get information which the republic desired about a certain one, adding that "immediately on arriving in London [he] will be called before the privy council and compelled to give account of his negotiations with the viceroy of Naples."[21] The ambassador relates that he had recently conferred with several of the lords of the council to explain to them thoroughly the state of affairs in Italy —referring to hostile acts of the Spaniards, so that if certain business were discussed in council those well-affected could support Venetian interests on good grounds. He found them all well-disposed.[22] Next year a proclamation of the council ordered all persons who could give any information about a reputed attack by Sir Walter Raleigh on a Spanish town to repair to the council. Such attack was disapproved by the king, and was contrary to his instructions to preserve amity with Spain.[23]

[18] "Y asi fue de parecer que el Rey llamase a todos los de su Consejo y los juntase en Antoncurt para los cinco deste mandando que no se excusase ninguno y que allí se les diese quenta de las cosas que pasavan para que viesen si eran bastantes para declarar la guerra con V. M. y el Señor Archiduque." Don Diego Sarmiento to the king of Spain, 7 October 1614 (N. S.): *ibid.*, II. vii. 118.

[19] P. C. R., xxviii, 23 May 1616. [20] *Ibid.*, 27 November 1616.

[21] Letter of Piero Contarini, 24 November 1617 (N. S.): Venetian Transcripts, x. 26, 27.

[22] Letter of Piero Contarini, 1 December 1617 (N.S.): *ibid.*, fo. 31.

[23] S. P. D., James I, xcvii. 98.

In 1619 news came to England of the election of a new emperor, and about the same time the Elector Palatine asked whether he should accept the crown of Bohemia. James called on the privy council for advice, but news followed that the elector had accepted. Then James asked for the councillors' opinion. Most of them urged that he fail not to succor his son-in-law in such a time.[24] In 1622 the privy council sent a letter to Sir Thomas Roe, the king's ambassador at Constantinople, directing him to complain of depredations by Barbary pirates upon English commerce, and to demand that English sailors captive should be set free. If this were not done the English government would seek satisfaction at once by reprisals at sea.[25] A little later the council resolved to move his majesty to confer with Count Mansfeld about a new expedition in Germany. They would consider what to do if the king were forced to begin war with Spain.[26] About this time the French ambassador said that three events—the taking of Heidelberg, the return from Spain of the English emissary ill-satisfied, and passage of the Spanish naval force through the Channel without leave of the king of England—had extremely disgusted the privy council and irritated the people against Spain. On these matters several privy councils had been held in presence of the king.[27] In 1624 the council considered the complaint of

[24] "Con esto este Rey congoxo muchisimo, y dixo a los del Consejo que se encargaba de tomar el expediente que conuiniese en tal negocio, y la mayor parte de los consejeros segun he entendido estaba inclinada a persuadir al Rey que tenia obligacion de no dexar de acudir y socorrer a su hierno en tal ocassion." Julian Sanchez de Ulloa to the king of Spain, 27 September 1619 (N. S.): Spanish Transcripts, II, xi.

[25] P. C. R., xxxi, 22 May 1622.

[26] Secretary Calvert to the lord admiral, 12 October 1622: *Clarendon State Papers*, i. 23.

[27] "Ces trois occasions . . . ont donné lieu à plusieurs Conseilz qui se sont tenus à Hampton Court en présence du Roy de la G^de^ Bretagne et du prince, son filz." M. de Tillières to M. de Puysieux, 18 October 1622 (N. S.): Transcripts from Paris, lvi. 128.

the East India Company about the execution of Englishmen in Amboyna along with the king's demand for satisfaction from the states general therefor. They advised James to fit out a fleet for seizing Dutch ships wherever found; and an order was given to the lord admiral for this.[28]

In 1626, after the defeat of Christian IV of Denmark, the council held many meetings in the king's presence, and it was resolved to dispatch ten thousand soldiers in aid.[29] In the next year the privy council discussed the dispute with France and the danger to the Huguenots. The councillors advised the king that he was isolated in Europe, and favored entering into negotiations with the Spaniards.[30] Shortly after the Tuscan representative wrote that Lord Carleton, one of the privy council, was about to go on an embassy to Holland.[31] "The Counsell," said a correspondent in 1634, "hath beene sitting verye close all these dayes by-past; & so farre as I can learne the cause is a packet sent to the King by the French King, wherin hee declareth a resolution to take a place lying in the Palatinat upon the Rhin, to haue a passage ouer it; the place is Udenheim alias Philipsburg." [32] In the summer of 1634 a long report prepared by Secretary Coke, on relations between England and various foreign countries was read, by the king's command, at the council.[33] Next year in a council held with the king at Oatlands, there was discussion about sending assistance to his nephew. It was decided that the forces of the crown were needed at

[28] P. C. R., xxxii, 27, 30 September 1624.

[29] Salvetti to the grand duke of Tuscany, 2 October 1626 (N. S.): *H. M. C.*, 11th report, appendix, i. 84.

[30] Letter of Alvise Contarini, 19 March 1627 (N. S.): Venetian Transcripts, xiv. 355.

[31] Salvetti to the grand duke of Tuscany, 18 June 1627 (N. S.): *H. M. C.*, 11th report, appendix, i. 119.

[32] John Durie to Sir Thomas Roe, 16 January 1633-4; S. P. D., Charles I, cclviii.

[33] *Ibid.*, cclxix, 8 June 1634.

home, that nothing could be effected save by negotiating with the emperor.[34] About that time the mayor of Plymouth informed the council that a fleet of Dutch ships bound for Brazil had come into the harbor, that some of the sailors landing had insolently committed barbarities and cruelties on English soil. In the king's name the council ordered that these ships be stayed until further direction.[35] In 1636 the Venetian ambassador reported that the privy council held several meetings about the Palatinate and about whether it would be well for the king to side with France or with Spain.[36]

Similar or closely related to what the council did with respect to foreign affairs was some of the business done in respect of Scotland, certain outlying dominions, plantations, and trading stations, or having to do with foreign commerce and trade, which were closely connected either with foreign affairs or with matters concerning the colonial possessions.

Generally speaking, in council business Scotland had a peculiar place. It was not entirely a foreign land, so the council had not in respect of it so much concern as it had with business arising from relations with countries abroad. On the other hand Scotland was not under the domestic administration of the English privy council, as England was, since it was governed by the Scots privy council and administrative organs under a king sovereign in each of the countries. From time to time the English privy council corresponded with the council of Scotland.[37] Occasionally some of the councillors accompanied the king to Scotland, and, perhaps, with him there took part in

[34] Letter of Angelo Correr, 9 August 1635 (N. S.): Venetian Transcripts, xix. 55.

[35] P. C. R., xlv, 18 December 1635.

[36] Letters of Angelo Correr, 29 February, 2 October 1636 (N. S.): Venetian Transcripts, xviii. 116, 202.

[37] S. P. D., James I, xv, 20 July 1605.

governmental work. "All our English Counsell," says a writer in 1617, "that wear in Scottland, wear made of the Kings Counsell there before the King departed that Kingdome." [38] Wentworth afterwards disapproved of the separation of English and Scottish business between the two councils and prophesied disaster resultant. "I never," he says, "was much in Love with the Way of King *James* his keeping of all the Affairs of that Kingdom of *Scotland* amongst those of that Nation, but carried indeed as a Mystery to all the Council of *England*; a Rule but over much kept by our Master also." [39]

With respect to Jersey, Guernsey, and other islands about England, with respect to Ireland, and the more distant plantations and colonial possessions, the privy council of England was, under the king, the all-important organ of government and administration. These dominions were the king's possessions, and however local administration might accord with local privileges, charters, or agreements, all these domains continued to be under the supreme authority of the king, exercised for him largely by his privy council. For the Channel Islands there was often something of routine before the council, as there continued to be more later on. In 1618 the council drafted ordinances for Jersey, which were signed by the king and sealed with the privy signet.[40] In 1629 the council attended to numerous matters having to do with Jersey and with Guernsey.[41]

The council had usually some matter concerning Ireland before it, though not the vast mass of Irish business that took its attention so largely a century later when conditions had been rendered more settled in that island. Many

[38] George Gerrard to Sir Dudley Carleton, 10 July 1617: S.P.D., James I, xciii.

[39] The lord deputy to Sir Henry Vane, 16 April 1639: *Strafford Letters*, ii. 325.

[40] P.C.R., xxix, 15, 21 June 1618.

[41] *Ibid.*, xxxix.

letters and communications were sent from the council to the lord deputy of Ireland or to the lords justices there,[42] though after Strafford took charge of Irish government the English privy council concerned itself less with Irish affairs.

In 1605 the lords of the council forbade Irish beggars to land in England.[43] In 1609 a commission was given to certain ones to examine suitors to the privy council about matters concerning the plantation in Ulster, they to settle minor points and refer only difficult cases to the council.[44] At another time the council drew up orders to be observed in distributing escheated lands in County Wexford.[45] In 1626 a letter of general regulations was sent by the council to the deputy and the council of Ireland: British settlers to reside on their plantations; a mint to be established in Ireland.[46] In 1632 the privy council presented "Proposic̄ons to be Considered of by his ma^{ṭie} concerning the Gouernm^{ṭ} of Ireland," which were by the royal command entered in the register of the council.[47] After the fall of Strafford more Irish business came before the English privy council until it ceased to do business.[48]

Much business concerning the plantations over seas came before the privy council. In 1621 nine councillors agreed on the following order:

> Whereas the Kings most excellent Ma^{ṭie} duely waighing in his princely iudgement the great advantages both of hono^{r} and profitt wch this Crowne and state might receiue from a setled and well ordered plantation in Virginia was graciously pleased for the better encouragement and furtherance of the Vndertakers therein to grant vnto them sundrie verie large im̄unities

[42] *Ibid.*, xxvii, 10 June 1614; xxviii, *passim*.
[43] *H. M. C.*, 13th report, appendix, iv. 132.
[44] S. P. D., James I, xlv, 11 May 1609.
[45] P. C. R., xxvii, 25 July 1614
[46] *Ibid.*, xxxv, 20 September 1626.
[47] *Ibid.*, xli, 17 February 1631-2.
[48] *Ibid.*, liii.

and priviledges, as not doubting but that they would apply themselves vnto such courses as might most firmely incorporate that plantation vnto this Comon-wealth and be most beneficiall to the same, wch will best be done if the Comodities brought from thence were appropriated vnto his Ma^ts^ subiects and not comunicated to forraine Countries but by way of Trade and comerce from hence onely. fforasmuch as their Lopps having beene informed that the said Vndertakers haue for private respects setled their Magazin of Comodities to be brought from Virginia in a forraine Countrie wch course in noe wise is to be suffered, neither in policie nor for the hono^r^ of the state (that being but a Colonie derived from hence), as also for that it may be a losse vnto his Matie in his Customes, if not the hazarding of the Trade wch in future times is well hoped may be of much profitt Use and importance to this Comon-wealth, Their Lopps for these and sundry other reasons of state, and vpon full hearing of the foresaid Vndertakers now the second time called to the Board, thought fitt and accordingly ordered that from henceforth all Tobacco and other comodities whatsoeuer to be brought and traded from the foresaid plantations shall not be carried into any forraine parts vntill the same haue beene first landed here and his Ma^ts^ Customes paid therefore.

This regulation was to be put into effect after four months so that such commodities in foreign parts then might be sold.[49]

In 1626 long and detailed instructions were sent from the privy council to Sir George Yeardley, governor of Virginia, as were others two years later.[50] Many notices occur in the register about Virginia and less frequently

[49] P. C. R., xxxi, 24 October 1621.

[50] *Ibid.*, xxxiii, 19 April 1626; xxxviii, 6 August 1628.

about New England and other plantations, though during this period, when the colonies were comparatively neglected by the government in London, there is far less than there was after 1660, when gradually colonial business came to be so large a part of what was done in the council.

Connected, to some extent, with foreign matters, was the issuing of passes to travel and licenses for going abroad. For going forth from the kingdom then permission of the king was necessary—the equivalent of the passport still required in some countries. In 1630 the general regulation was made that all noblemen and noblemen's children who wished to go abroad were to have their passports under signature of the king. Licenses for persons of meaner rank were to be signed by one of the secretaries of state, who must make inquiries of the applicant about his religion and condition.[51] Such passes to travel were usually signed by the members of the council present in the meeting where they were granted.[52] There are numerous instances in the register of the council. In 1611 seven councillors granted a license for Mabel Griffith to pass beyond the seas and live abroad, but not to go to Rome.[53] In 1614 a pass was granted to John Southe to go to France for a convenient time.[54] In 1623 the council granted "A passe for the countesse of Tillieres, wife of the Count of Tillieres to passe into ffrance, wth her children, companie, servants, and wholl retinue wthout search. And to haue all kind of courtesie, respect and fauoure shewed towards her, as was meet to a Ladie of her quallitie." [55]

The council then as afterward took much interest in commerce and merchants' affairs, since the crown desired

[51] *Ibid.*, xl, 8 November 1630.
[52] S. P. D., Charles I, ccccix. 63.
[53] S. P. D., James I, lxv, 19 July 1611.
[54] P. C. R., xxvii, 15 April 1614.
[55] *Ibid.*, xxxi, 24 January 1622-3.

to foster trade and advance the wealth of the kingdom. In 1604 memoranda were drawn up for the council answering the complaint of the Levant merchants against the impost put upon currants.[56] In 1607 the council directed the attorney general to stay an exchequer process entered by a certain one against two Dutch merchants for bringing pins into England.[57] Next year the council granted a "toleracon" for stretching and straining a certain number of cloths, made in various counties, contrary to the law then in force, and for transporting the same to the Eastland countries, Muscovy, and Barbary.[58] In 1612, at direction of the king, there was a meeting of the council and long discussion about trade with Flanders.[59] In 1616, at a council of seventeen, there was a full hearing of objections against the new company of the Merchant Adventurers. Another meeting was then arranged to which the company was to bring its charter and to which the king's learned counsel were to come.[60] In 1627 vessels were ordered to protect the English fisheries in the North Sea.[61] At another time the council heard a cause arising from complaint made by the French Company about importing French wines contrary to a certain proclamation.[62]

The councillors heard numerous petitions and representations from merchants. In 1605 they were asked to relieve the merchants trading to the Levant from the impost put upon currants, that they might trade on equal terms with the Venetians, and that the king bear the expense of a present to the grand seignior.[63] Shortly after the Merchant Strangers petitioned the council against the

[56] S. P. D., James I, x, 16 November 1604.
[57] *Ibid.*, xxvi, 25 January 1606-7.
[58] *Ibid.*, xl. 25.
[59] *Ibid.*, lxx, 3, 7 August 1612.
[60] P. C. R., xxviii, 16 January 1615-16.
[61] *Ibid.*, xxxvi, 27 August 1627, 24 January 1627-8.
[62] S. P. D., Charles I, cliii, 18 December 1629.
[63] S. P. D., James I, xv, July 1605.

proposed imposition upon them of a double duty on baize.[64] On another occasion the lord mayor and the aldermen of London presented grievances of the freemen of the city in that foreign artisans and traders were engrossing the Dutch trade and the French trade; and they asked that laws against foreigners be enforced.[65] To the council came reports from the commissioners for trade.[66] The council ordained regulations about trade.[67] It passed numerous orders and regulations concerning the customs.[68] Frequently it dealt with the affairs of trading companies, like the East India Company, the Eastland Merchants, and the Merchant Adventurers.[69]

With respect to domestic affairs the privy council assisted the king in his administrative and executive functions, that is, in carrying on the central government of England. Such matters were in the prerogative of the crown, but from convenience and necessity most of this business was carried out by the lords of the council and their subordinates, the council relieving the monarch of much of the drudgery and routine inseparable from any great organization, and leaving him freer for foreign relations, for statecraft, and for general consideration of policy. None the less, the king in council took interest and part not only in the greater domestic matters but often in routine and detail as well.

Most important, on the whole, in domestic affairs, was what the lords of the council did in connection with imposing and raising a revenue. During the first half of the seventeenth century the council was more active with respect to finance and the collecting of revenue than it was destined ever to be in the future. Peculiar circum-

[64] *Ibid.*, xxvi, January 1606-7.
[65] *Ibid.*, lxv, 23 July 1611.
[66] P. C. R., xxxii, 3 July 1624
[67] "An Act of Counsell about the Persian Trade": *ibid.*, 13 January 1624-5.
[68] *Ibid.*, xxxvi.
[69] *Ibid.*, li, lii.

stances of that time, when the Stuarts disagreed with their parliaments, strove to raise revenue without them, and presently dispensed with parliaments entirely, gave the council more importance in respect of taxation and finance than it had had in the century preceding, a position much like that which the principal advisers of Henry VII had had long before. After 1660 this situation never recurred. Moreover, after 1660 gradually the treasury became a well-organized department, taking over much of the financial routine that had occupied councillors in the period of James I and Charles I.

Under the two first Stuarts king and council deliberated concerning means by which revenue was to be obtained, strove to raise revenue for support of the government, and often busied themselves in the actual process of collection, while in certain desperate emergencies councillors helped the king to tide over his most pressing needs by taking collections among themselves. It was in the council that impositions, gifts, ship money were decided on. The councillors undertook the regulation of these devices and even the gathering of the money therefrom. Furthermore they took part in expenditure and appropriation. All in all, during this period taxation and finance had a great part of the council's attention, and there were times when it virtually performed many of the duties earlier carried through by treasury, exchequer, and sheriffs.

The council along with the king determined how additional revenue not given by parliament, that is revenue beyond the ordinary resources of the crown—such as yield from the royal estates, feudal perquisites, and well-established fees and payments—but not parliamentary grants, should be raised. In 1612 the council gave opinion how an aid for marrying the Princess Elizabeth might be levied.[70] In 1617 one of Carleton's correspondents wrote:

[70] S. P. D., James I, lxx, 8 August 1612.

"There hath ben of late imposed a great Taske by the king uppon the Lords for the examyning of the State of the Reveneue, and the moderating of his expenses, wherein there hath ben much paines taken but wee fynd o^r^selves troubled . . . to settle any good order for the supporting of his expense without the assistance of a Parlam^t^." [71] During these years James's finances were in hopeless confusion, all payments in arrears, his servants begging for disbursal of some portion of what was owed to them lest they and their families starve, and sometimes there was no money for payment of the very household expenses of the king. In this same year, accordingly the privy council was again considering how the king's expenses might be retrenched.[72] In 1622 after the dissolution of parliament the privy council was busy trying to raise benevolences. In the papers of this time there is a list of seventy-four persons to be summoned before the council in connection with such a payment.[73] That year in a council of the prince and nineteen others, "It is this day vpon speciall consideracon thought fitt and ordred that there bee an Imposicon of 10^s^ layd vpon everie hundred of forraine Hopps to bee brought into this kingdom from anie the parts beyond the Seas. And that the lo: high Treasurer of Englaund doe giue order for leavyinge the same vntill further order bee given by Parlament." [74]

In 1625, at the very beginning of the reign of Charles I, the lord treasurer told the lords of the council at how low an ebb the king's treasury was, and what great charges were coming upon the king in addition to the mighty arrear of debts that lay upon the state, and asked the lords to join in suit to the king to stay his bounty making no

[71] Thomas Edmondes to [Sir Dudley Carleton]: State Papers Foreign, Holland, lxxvi, 6 March 1616-17.

[72] P. C. R., xxix, 5 December 1617.

[73] S. P. D., James I, cxxvii. 48.

[74] P. C. R., xxxi, 30 September 1622.

new grants of lands or pensions until his estate might be some way repaired, this not to affect what the late king, under his hand, privy seal or signet, had declared his intention to have passed.[75]

The new king and his council at once busied themselves in efforts to increase the revenue of the crown. In September 1625, in a council at which ten were present, writs of privy seal were arranged. After other business that day is the entry:

> The Copies of diuers things resolued on by their Lo^pps^ for formes to be written by his Matie, as followeth (vizt)

and in the margin is the note: "Forme of a lr̄e for his Matie to write of to the LL^s^ of the Councell concerning the Privy Seale." Then followed the form of the document, with marginal annotations embodying the ideas of the king as to the best method and procedure. The council finally decided on the following:

> Forme of lr̄e for his Matie to write to the ll^s^ lieutenants concerning the Loane Mony.
>
> Forme of the Kings lr̄e to the Lo. Priuy Seale.
>
> Forme of the Priuy Seale.
>
> Draught of a lr̄e for the ll^s^ to write to the seuerall Collectors in euery Countie.[76]

In 1626 a council of sixteen attended by Charles gravely considered the straits into which the crown revenues had fallen, the necessity of his affairs, and how impossible it would be to provide for his wants or prevent dangers from this situation. At the instance of the council the king then resolved, and so it was ordered, that for two years no one urge suits or requests for the king's bounty that would make his revenue less.[77]

[75] P. C. R., xxxiii, 29 March 1625.
[76] *Ibid.*, 7 September 1625.
[77] *Ibid.*, xxxiii, 29 June 1626.

In 1626, in a large privy council, the king determined to levy subsidies not granted by parliament: [78]

> This daie their lopps taking into their Consideracons the present State of his Mats Reuenew arysing by Customes Subsidie and Imposts upon goods and Merchandize exported and imported, and fynding that it hath beene Constantly Contynewed for many Ages and is now a principall pte of the Reuenew of the Crowne and is of necessity soe to bee Contynewed for the supportacon thereof, wch in his two last Parliamts hath beene thought upon, but could not bee there setled by authority of Parliamt, as from tyme to tyme by many ages and descents past it hath beene by reason of the dissolucon of those Parliamts before those things wch weare theare treated of could be pfected. Itt is therefore ordered by this Board for the reasons afforesaid, and for that it was intended to haue beene confirmed by Parliamt as it hath beene in all Ages euer since the tyme of King Henry the Sixt, that all those duties upon goods and Merchaundize called by the seuerall names of Customes Subsidy and Imposts shalbe leavyed Collected and receiued for his Mats use in such manner and forme, as the same were levied Collected and receiued at the Tyme of the decease of his late Matie King James.

In September the king informed his councillors of the defeat of his uncle, the king of Denmark, and of other foreign events that made necessary further preparations of men and money for defence of England and for the support of friends and allies abroad. There was serious consideration of the pressing need for immediate provision and aid, especially assisting and supplying the king of Denmark at once. The council advised that each man should

[78] *Ibid.*, xxxiii, 8 July 1626.

be asked to lend to the crown in proportion and according to the sum he had been assessed in the last subsidy rolls.[79]

The councillors found it necessary to assist the king from their personal funds. Later that year at a council of twenty, the king present, it was ordered "that the moneys collected vpon the Loane, to his ma^tie from the LLo: of the Councell, and the rest of the Nobillitie" should be issued for the satisfaction of one of the king's most helpful creditors.[80] "The Counsaile," said a correspondent in 1628, "is very assiduous, and all other businesses layd aside, they only consider of wayes how to get mony, which many thinke must conclude in a Parliament." [81] At this time the register is filled with references to the activity of the councillors in raising and applying money for the king's service.[82] "Nothing is thought of but the raising of money, the council assembling daily," says the Venetian ambassador.[83]

It was in a committee of the privy council, probably, that the project of levying ship money was considered and perfected. In 1634 Lord Keeper Coventry wrote to the king, the councillors had reasoned that when the localities asked to make the payment were commanded both by writ and a letter from the council they would hardly dare refuse a meeting of local authorities to consider the payment; if upon meeting they should decline the assessment, they would answer it to the council board; the councillors expected payment if for no other reasons, because ships of the burden required were not to be supplied; "And it hath beene hertofore thought that the counsail board would be the fittest place to settle the busines

[79] P. C. R., xxxiv, 14 September 1626.

[80] *Ibid.*, 12 November 1626.

[81] Rowland Woodward to Francis Windebank: S. P. D., Charles I, xc, 9 January 1627-8.

[82] P. C. R., xxxvi.

[83] Letter of Alvise Contarini, 30 January 1628 (N. S.): Venetian Transcripts, xv. 936.

wth any townes that shalbe either doubtfull or refractory." [84] Later that year a council of the king and twenty sent out the king's writs to all maritime cities, towns, and counties of the kingdom to make assessments; and shortly after the Cinque Ports were ordered to furnish the king with a ship of eight hundred tons.[85]

The privy council not only assisted in determining financial policy and sent forth orders concerning taxation, but took active part in seeing that the required revenue was collected, punished the negligent or refractory, and even took some part in paying out what was collected. In the course of this business a vast number of orders and letters were sent out to local officials and numerous letters and petitions were received by the council from the various local jurisdictions.

In 1608 the council sent a communication to the earl of Sussex requiring payment of the second installment of the subsidy due from him.[86] In 1609 commissioners collecting the aid for the knighting of Prince Henry complained to the council of the smallness of the composition offered by Sir John Hollis for his property in St. Clement Danes, and of disrespectful language from him.[87] During that year the council received numerous reports from various places about progress made in collecting this aid.[88] In 1613 the council sent a letter to a certain one in Gloucestershire warning him to pay £133 rated on his manor, or property of his would be seized for use of the king.[89] A little later the councillors were communicating with the justices of the peace in Kent about a benevolence to pay the king's debts.[90] During 1614 the council was sending

[84] Coventry to the king: S. P. D., Charles I, cclxxii, 22 July 1634.
[85] P. C. R., xliv, 31 October, 24 November 1634.
[86] S. P. D., James I, xxxi, 22 March 1607-8.
[87] *Ibid.*, xlv, 15 June 1609.
[88] *Ibid.*, xlv, xlvii.
[89] *H. M. C.*, 10th report, appendix, iv. 162.
[90] *Ibid.*, p. 17.

many letters to sheriffs and justices of the peace in several counties of England and Wales concerning voluntary contributions for relief of the king's urgent necessities in supplying Ireland and the cautionary towns in Holland and Zealand.[91] In 1617 the council directed the attorney general to bring suit against the goldsmiths who had infringed the letters patent granted to certain ones for making gold and silver thread.[92] In 1620 a letter went to the mayor of Plymouth concerning payment from towns in western England to help send out an expedition against the pirates of Tunis and Algiers.[93]

In collecting revenue by privy seals and by levy of ship money the council was zealous and active. As time went on councillors' attention was principally engrossed with collection and management of ship money.

In 1626 the register contains "The Names of such persons wthin the County Pallatine of Dirrham thought fitt to bee charged wth Priuy Seales": [94] a long list with amount opposite each name, as

	£	s	d
Sr Thomas Tempest Barr	25	0	0
Sr Willm Kennett Kn^{t}	20	0	0
Sr Thomas Riddell Kn^{t}	20	0	0

A little later there was a list of "The names of Strangers to lend vppon Priuie seales." [95] Numerous orders from the council went forth, as to London, to Yorkshire, to Buckinghamshire, to other places, about the collection of loans for the king, the commissioners to admonish those who had not paid, making clear the inconvenience that might ensue to them, thus giving again to "benevolence" the meaning it had had under Henry VII.[96]

[91] P. C. R., xxvii, 17 September 1614.
[92] *Ibid.*, xxix, 25 April 1617.
[93] *Ibid.*, xxx, 7 July 1620.
[94] *Ibid.*, xxxiii, 30 April 1626.
[95] *Ibid.*, xxxiv, 22 July 1626.
[96] *Ibid.*, xxxiv, 4 August 1626; xxxv, 12 January 1626-7, 24 April 1627.

In 1626 thirteen persons were called before the privy council and required to lend to the king in accordance with the sums they were assessed for in the roll of the last subsidy granted. Alleging poverty, they refused. They were told to subscribe, and if investigation showed them too poor, they would then be released:

> All wch notw^thstanding they stiffely, and contemptuisly refused to subscribe their names, or to say they were willing, if they were able, wch refusall rising from A willfull Contempt as manifestly appeared by their behavio^r^ The lls. haueing first acquainted his Ma^ty^ herew^th^ gaue order that these Contemptuous persons should presently be pressed, and sent to serue in the Shipps now goeing out, or els where.[97]

At this time, according to the reports of a foreign observer, the greater number of the members of the council were in the shires trying to raise money.[98] In the register of the council for 1626 and 1627, just before the contemporary index which was probably made by one of the clerks of the council, and in the same hand, is the note: "All psons that refused to pay the Loane to his Ma^ty^ or were Default^rs^ in the Must^rs^ are noted in this Index vnder : D: as Default^rs^ " [99] There are numerous bonds constraining individuals to appear before the council for refusing to pay the forced loan,[100] while many communications to the council came from those who were trying to make the collection. In 1628 when an indenture was entered into between the crown and the city of London for assurance of certain lands of the annual value of £ 12496 in fee farm to the city in discharge of the sum of £ 229,897 loaned already and a further sum of £ 120,000 to be given

[97] *Ibid.*, xxxiv, 11 October 1626.

[98] Salvetti to the grand duke of Tuscany, 25 December 1626, 22 January 1627 (N.S.): *H.M.C.*, 11th rep., appendix, i. 101, 105, 110, 111.

[99] P.C.R., xxxv. [316].

[100] S.P.D., Charles I, liv, 17 February 1627-8.

by the city to the king, the contract was made between the king and the lords of the privy council on the one hand and the mayor and the commonalty of the city of London on the other. It was signed by the king and twenty-two members of the council.[101]

In 1634 the council sent letters to the sheriffs of the various counties to make assessments for the ship money in default of the local magistrates so doing. A schedule of the counties and the sums to be levied was drawn up. For example, the sheriff of Gloucestershire was to make the assessment for Bristol, Gloucester, Bridgewater, and Minehead, the magistrates of those places not having done so.[102] At the same time letters of censure were dispatched to the mayors of various corporations because they had not assessed their own towns for the ship money.[103] When Kent offered to supply a merchant ship to the king, the council declined to receive it, replying that the king would furnish the county with a ship of his own at their cost.[104] When the sheriff of Chester complained that he had been menaced in respect of the ship money, the council promised him support.[105] When the sheriffs of Gloucester and Somerset offered to furnish a ship for less than the assessment, the council replied well, if that could be done, but they believed it could not be, in that case not to dally with the order.[106] When Bristol complained of over-assessment, the council decided she should bear only one-third of the £ 6500 assessed upon the counties of Somerset and Gloucester.[107] About the same time it was ordered that distresses be issued in Devon against those who had not yet paid.[108] A little later the council messenger was sent down to bring up the mayor of Weymouth with the

[101] P. C. R., xxxviii, 30 May 1628.
[102] *Ibid.*, xliv, 3 December 1634.
[103] *Ibid.*, 9 December 1634.
[104] *Ibid.*, 19 December 1634.
[105] *Ibid.*, xliv, 4 January 1634-5.
[106] *Ibid.*, 13 January 1634-5.
[107] *Ibid.*, 11 February 1634-5.
[108] *Ibid.*, 22 February 1634-5.

sum in arrears from that place.[109] So hardly did the council push this business that in June it suspended nearly all the council messengers for neglect in delivering writs relating to ship money, though later on they were reinstated by the king.[110]

From this time on, until the crumbling of the power of Charles I, privy council business was largely concerned with ship money.[111] In 1638 the council having been petitioned by the inhabitants of Warwickshire to be excused from a moiety of the ship money levied upon them, the council wrote to the sheriff that the county was rated easy, directing him to levy the full sum.[112] Meanwhile the sheriffs were complaining of the difficulties which they encountered. In 1638 the sheriff of Hertfordshire wrote that some of his people refused to pay or to suffer any restraint.[113] The sheriff of Nottinghamshire wrote that he was having much trouble, since the arguments of some of the judges encouraged recalcitrants. "I pray," asked this diplomat, "you do me the fauor as to write me word what the lords of the Councell would haue done with those that refuses: that I may as neare as I can satisfy the kings expectation, wrong no body, and keepe my self out of danger."[114] When Charles was in the north in 1639 he urged the council to take particular care for collection of the ship money.[115] Well into 1640 the council was largely engrossed with this work.[116]

The privy council took part also in the disbursement of money, and the regulation of the coinage, though the mechanism for this was better organized then. In 1616 the council issued a warrant to the treasurer of the chamber

[109] *Ibid.*, 5 May 1635. [110] *Ibid.*, 3 June 1635; xlv, 8 November 1635.
[111] *Ibid.*, xlv, xlvi, xlvii, xlix, l.
[112] S. P. D., Charles I, ccclxxix, 26 January 1637-8.
[113] *Ibid.*, ccclxxxvii, 10 April 1638. [114] *Ibid.*, cccxc, 18 May 1638.
[115] Secretary Coke to Secretary Windebank: *ibid.*, ccccxvii, 9 April 1639.
[116] P. C. R., li, lii.

to pay certain ones twenty pounds for bringing over an elk sent by the marquis of Brandenburg to the king.[117] In 1618 there were "Orders of Councell touching the Mynt."[118] In 1622 the following business was settled:[119]

> Whereas vpon order given by his Matie by Privey Seale to assigne order to his deerest daughter the Princess Electresse the Sum̄e of ffive Thousand pounds for necessary prouisions now against the tyme of her Lying downe in Child Bedd, It was agreed vpon and ordered by the Board, that the foresaid Sum̄e should be paid out of the Contribuc̄on Moneys by a Thousand pounds a Weeke; to wch purpose L̄res were then addressed to the Lo: Treasurer, and Mr Chancellor of the Exchequer, In conformitie whereunto there was one Thousand pounds payd over the first weeke: And the Lo: Treasurer being moued to give the Like order the second weeke, his Lp promised forthw^th^ to make over the Whole by one intyre Sum̄e. But nothing hauing ben since don. Mr Secretary Caluert this day moued the Boarde, that some speedie course might be taken therein in regard of her Heigh^n^ vrgent and presing occasions, Wherevpon the Lo. Treasurer answered that he would take order in it.

The council assisted the king in the management of the army and the navy, there being for the most part no well-organized departments of war and admiralty then. It was still the period when England had no strong army and generally no strong navy. From this there was to be no change until a powerful standing navy was equipped by Charles I and later by the Protectorate and a strong standing army was created by rebels in the revolution soon to come. At this time there were in France, in Spain,

[117] P. C. R., xxviii, 14 January 1615-16.
[118] *Ibid.*, xxx, 18 November 1618.
[119] *Ibid.*, xxxi, 6 April 1622.

in the Ottoman Empire small, though as things were, powerful permanent forces of well-trained and veteran troops, but not in the British Isles. The king of England had a small bodyguard, but nothing else upon which he could certainly rely. The country had almost forgot the art of war. It knew little of military science as it was being then developed, except in so far as soldiers of fortune came back from the Thirty Years War with understanding of the methods employed there. The military system in England was based upon the militia to be called out in time of danger for defense of the realm. It was essentially what it had been under Elizabeth and Henry VIII, and differed little from what had prevailed under Edward IV and Edward I, save that the noblemen had now given over their retainers and feudal levies could no longer be expected. With respect to the navy there was marked improvement in this period. The Spanish Armada had been defeated by a small standing navy of the crown powerfully augmented by a larger force of volunteer ships. Under James I the royal navy had declined. As late as 1639 a Spanish fleet was demoralized through attack right upon the English shore by the Dutch, with the English government powerless to interfere. Meanwhile, however, Charles I was building up his naval forces, for part of the ship money actually went for construction of warships. At this time was being laid the foundation of a navy that would later on make England the predominant sea power. In the management of such army as could be raised and of the navy the privy council took active part.

In 1608 the council issued an order against unlawful transporting of ordnance.[120] In 1612 it permitted citizens of London to the number of two hundred and fifty to drill in the Artillery Gardens or in other convenient place.[121] It received many reports from the counties concerning the

[120] S. P. D., James I, xxxviii, 8 December 1608.
[121] *Ibid.*, lxx, 3 July 1612.

musters held there,[122] and it sent out letters to the lord lieutenants and the commissioners of the musters in the various counties.[123] In 1618 the earl of Southampton wrote to the council that he had held the musters in Hampshire, but that many were backward, obstinately unwilling to do their share, some refusing to pay the tax for an allowance to the muster master.[124] "There were many psons sent for by warrant, and diuers committed for defaults at Mustres," says a note in the register of the council, referring to the years 1619-21.[125] Concerning the musters, which were the basis of such ordinary preparation for war as then existed in England, there continued to be not a little in the work of the council.[126]

The council superintended the management of ordnance and military supply. In 1619 it sent out letters and gave directions concerning quotas of powder and match to be provided in the several counties, and the places where they were to be stored.[127] There were numerous orders of the council about supplying, distributing, allowing the transport of arms and military supplies. In 1627 permission was granted to import arms and ammunition free of duty into Guernsey and the Isle of Man.[128] That autumn there was a detailed statement of provisions to be furnished out of the office of the ordnance and sent to the Isle of Ré.[129] There were many orders about the making, furnishing, and distribution of gunpowder.[130] The council conferred with and directed "the officers of the ordinance."[131]

There was much also in respect of raising, equipping, and paying troops, whenever any military expedition was undertaken or intended. In 1626 the council directed the

[122] S. P. D., James I, lxxii. [123] P. C. R., xxix, 25 April 1618.
[124] S. P. D., James I, xcvii, 13 June 1618.
[125] P. C. R., xxx. 690. [126] *Ibid.*, xlix.
[127] *Ibid.*, xxx, 11 February 1618-19.
[128] *Ibid.*, xxxvi, 15, 27 June 1627. [129] *Ibid.*, 5 October 1627.
[130] *Ibid.*, xli. [131] *Ibid.*, xxxix, 5 June 1629, and *passim*.

taking of measures to resist possible invasion.[132] Early next year it ordered that certain ones, formerly sent for by warrant from the board for refusing to receive press money for service in the king's armies, and certain others, who had refused to obey the injunction of the commissioners of the loan to appear, should be proceeded with *ore tenus* in the Star Chamber a few days later.[133] About this time orders of council were issued for certain regiments to go on the expedition, and concerning the reorganization of a number of companies.[134] In 1627 the council ordered the lord treasurer and the chancellor of the exchequer to disburse various large sums of money to the treasurer of the army.[135] It also sent letters to the lord lieutenants of certain counties respecting the billeting of soldiers returned from Ré.[136] Next year the council of war—practically an enlarged committee of the privy council—reported to the council the sums due to officers discharged lately at Portsmouth. The council ordered payment, and that the lord treasurer command the paymaster of the army to attend to it.[137] In 1639 and in 1640 there was usually much business before the privy council concerning the raising, supporting, supplying, and disposing of soldiers, about the musters, and about the ordnance.[138]

As instances of miscellaneous matters attended to by the council in ordinary times respecting military things, the following may be cited. In 1632 certain soldiers were to be stopped at Gravesend and turned over to Colonel Fleetwood, under a warrant with a clause of assistance. A certain one in Wilts to be repaid money advanced for billeting soldiers.[139] A warrant allowed two thousand

[132] *Ibid.*, xxxiii, 10 July 1626.
[133] *Ibid.*, xxxv, 16 March 1626-7.
[134] *Ibid.*, 31 March 1627.
[135] *Ibid.*, xxxvi, 11, 13 June, 2 August 1627.
[136] *Ibid.*, 16 November 1627.
[137] *Ibid.*, xxxix, 24 December 1628.
[138] *Ibid.*, li, lii.
[139] *Ibid.*, xlii, 16 May 1632.

soldiers to be raised for Russia under Colonel Sir Alexander Lesley. A letter was sent to the lords justices of Ireland to permit Colonel Lumsdell to raise three hundred volunteers for Sweden.[140] An order to the lord treasurer and the chancellor of the exchequer directed payment to a certain one for his arrears as paymaster of the late armies.[141] A warrant was issued to set at liberty one illegally pressed.[142] Two convicted coiners of farthings were ordered to serve in the army being raised to go to Russia.[143] For the future it was ordered that no officers or others should engage in foreign service.[144]

During this period the council attended to much that related to the fleet, though sometimes there is so little in the register about admiralty matters that one might suppose the admiralty department was functioning largely by itself. Certainly at times the admiralty was well organized and determined to brook no infringement upon its jurisdiction. In 1626 in a council of the king and nineteen there were "Proposic̄ons this day made by the Lo: Duke then in Councell and allowed of & ordered by the Boarde."[145] But early in the following year the lord admiral complained of some encroachment on the jurisdiction of himself and the court of admiralty, by council orders to the lord treasurer and the farmers of the customs for stay and release of ships on several occasions. Humble motion being made by his grace, the king commanded that henceforth no directions should be given by the board for the arrest or release of any ships, or for anything to be done about shipping or any admiralty business, without the privity and particular notice of the lord admiral; and this was ordered to be registered as an act of council.[146] With the passing of Buckingham the privy

[140] P. C. R., xlii, 25 May 1632.
[141] *Ibid.*, 27 June 1632.
[142] *Ibid.*, 27 July 1632.
[143] *Ibid.*, 18 July 1632.
[144] *Ibid.*, 7 December 1632.
[145] *Ibid.*, xxxiii, 8 July 1626.
[146] *Ibid.*, xxxv, 28 January 1626-7.

council was again on occasion active in naval and admiralty matters. In 1629 the lords commissioners for marine affairs along with a judge of the admiralty were ordered to attend the council.[147] In 1638 " His ma^{tie} did this day declare, at the Board that he is pleased to conferr on Prince James his Second Sonne for his Life the office of Lo: high Admirall of England, Ireland, Wales, Calie, Normandie, Gascoigne & Aquitane, and all other his ma^{ts} Dominions." [148]

The council busied itself with the building of warships, but more especially with equipping them with crews and supplies. Impressing men to serve on the ships often occupied the council's attention. In 1620, when an expedition was being planned against the pirates, " Instructions to be obserued by yo^{w} his Ma^{ts} Commissioners for presting of Marriners " were sent out to various counties.[149] The justices of the peace in Norfolk were ordered to impress eighty seamen.[150] Numerous orders were issued for impressing soldiers and sailors to serve in the campaign against France.[151] In 1636 the council ordered a general impressment of two thousand mariners for the fleet, warrants being directed to all vice-admirals, mayors, sheriffs, and justices of the peace of the specified counties, cities and towns.[152] There was also care for provisioning the fleet and paying for its maintenance. In 1625 an order of the council was sent to seven counties that they furnish wheat for a part of the royal navy about to go to sea.[153] In 1630, in a council of twenty-two, the lord treasurer informed the board that he had partly provided and would take further order for moneys for sending out a number of the king's ships to guard the narrow seas and protect

[147] *Ibid.*, xxxix, 11 September 1629.
[148] *Ibid.*, xlix, 18 March 1637-8.
[149] *Ibid.*, xxx, 12 July 1620.
[150] *H. M. C.*, 11th report, appendix, iv. 20.
[151] P. C. R., xxxvi.
[152] *Ibid.*, xlv, 10 February 1635-6.
[153] *Ibid.*, xxxii, 28 January 1624-5.

the coasts; also for preparing and furnishing the whole navy, that it might be ready on any sudden occasion for the king's service and defence of the realm. The council acknowledged and approved the work of the lord treasurer, and ordered that "the officers of the Nauy" speedily survey the present state of the king's ships and magazines, and take order for and provide supplies necessary to put into serviceable order all of the navy, according to such further orders as might be given by "his ma^{ts} Com^{rs} for the Admiraltie." [154] In 1630 the county of Oxford was ordered to provide wagons and carts to convey timber for the navy.[155] The council sometimes busied itself with providing the vessels themselves. In 1626 orders went to various places to furnish ships for the navy.[156] In 1631, when two new warships were to be built, order of the council issued for 1,300 trees to be selected from certain forests, and letters were dispatched to the justices of peace of Oxfordshire and Berks directing carriage of the timber, an open warrant being granted by the lord treasurer to the surveyor of the navy authorizing him to press carts and teams for transportation.[157]

Various navy matters passed through the council. In 1625 a letter to the commissioners of the navy ordered that three ships cruise off the west coast to guard against pirates.[158] In 1626 a warrant for impressing seamen was vacated. A little later an order was issued for two months' pay for the fleet at Portsmouth.[159] In 1632 an open warrant to one of the messengers of the king's chamber in ordinary directed that he bring up certain officers from one of the king's ships at Bristol.[160] An order of the coun-

[154] P. C. R., xxxix, 12 February 1629-30.
[155] *Ibid.*, xl, 7 June 1630.
[156] *Ibid.*, xxxiv, 24, 30 July 1626.
[157] *Ibid.*, xli, 29 June, 28 September 1631.
[158] *Ibid.*, xxxiii, 19 May 1625.
[159] *Ibid.*, xxxiv, 19 July, 26 August 1626.
[160] *Ibid.*, xli, 7 March 1631-2.

cil went to the commissioners of the admiralty directing them to provide shipping for defence of Ireland against pirates.[161] A question between the admiralty and the city of London about jurisdiction on the Thames was ordered to be heard. The commissioners of the admiralty were directed to compel ships from the plantations to come to London to discharge their cargoes.[162]

The king of England was head of the Church of England. His council assisted him in various ecclesiastical matters. This part of its activity had to do mostly with recusants and Catholics, but various other things came before it. In 1605 the French ambassador reported it had been resolved in the council that Catholics should pay fines and the arrears of their fines.[163] About this time the council directed the bishop of Durham to permit a recusant restricted within the limits of the county to come to London to pay his fines.[164] At the time of the Gunpowder Plot a certain Catholic was examined by the council.[165] In 1608 the council wrote to the bishop of Chester concerning proceedings against recusants: the king wished him not to stop them altogether, yet to proceed moderately and only against obstinate persons.[166] Next year an order of council went to the clerk of assize and the clerk of the peace of Salop that no proceedings should be taken against a certain one for recusancy, he being seventy-seven years old and well behaved.[167] In 1612 the council ordered the justices of the peace in Kent to disarm

[161] *Ibid.*, 9 March 1631-2.

[162] *Ibid.*, xli, 27 March, 4 April 1632.

[163] "Il a esté résolu au Conseil de ce Prince que les catholicques recusants payront le tribut ordinaire tant du passé qui ne leur a point esté exigé que du présent." De Beaumont to Villeroy, 1 June 1605 (N. S.): Transcripts from Paris, xl. 124.

[164] S. P. D., James I, xv, 28 September 1605.

[165] *Ibid.*, xvii, 7 December 1605.

[166] *Ibid.*, xxxvii, 24 October 1608.

[167] *Ibid.*, xlviii, 16 September 1609.

all recusants.[168] The bishop of Durham, sending the council an account of musters in the county, enclosed a list of the principal recusants in his diocese, with a list of those reclaimed.[169] During 1629 and 1630 the council ordered the arrest or imprisonment of priests and others; proceedings against recusants and priests; measures to prevent celebration of Romish services and masses; release of priests from prison and the sending them out of the kingdom.[170]

Many other ecclesiastical matters were dealt with. In 1626 the council ordered clergymen in the Isle of Wight to reside in their benefices.[171] In 1630 the council in communications to the archbishop of York, the lord president of the North, the lord mayor and six of the oldest aldermen of York, ordered an increase of maintenance for ministers in York by a tax on inhabitants.[172] In 1633 the king and a council of sixteen deliberated "About placing the Comunion Table in St Gregories Church," which was near St. Paul's.[173] In 1636 a warrant was given to the king's serjeant at arms to send Lady Davis to Bedlam, because she had committed profanations in Lichfield Cathedral. Merchant strangers were forbidden to have their children christened in their houses by popish priests.[174] Next year a vicar in Surrey having petitioned the council, the impropriator was ordered to increase his stipend.[175] About the same time a charge of simony in a Devon vicarage was referred to the bishop having jurisdiction. A little later a day was appointed for hearing a difference between the canons and prebends of Exeter.[176]

[168] *H. M. C.*, 10th report, appendix, iv. 11.
[169] S. P. D., James I, lxxv, 4 November 1613.
[170] P. C. R., xxxix.
[171] *Ibid.*, xxxiv. 63 (August 1626).
[172] *Ibid.*, xxxix, 24 May 1630.
[173] *Ibid.*, xliii, 3 November 1633.
[174] *Ibid.*, xlvii, 18 December 1636.
[175] *Ibid.*, 17 March 1636-7.
[176] *Ibid.*, 24 March 1636-7, 10 May 1637.

CHAPTER VII

LOCAL BUSINESS, JUDICIAL FUNCTIONS, AND ROUTINE

THE privy council was in constant contact with local officials and local affairs. In dealing with the direction of local matters the councillors handled a vast and complex variety of business. They were constantly receiving petitions, and they were as constantly sending communications and directions to local officials. With so many things were they concerned in local regulation that any classification is certain to be insufficient. In times of unusual disturbance or disorder the council took particular cognizance of what was going on in the different districts. It issued many general or particular orders, accordingly, on such occasions and for such purposes as it deemed well.

At the time of the Gunpowder Plot the bailiffs and the citizens of Worcester sent information to the council about what was happening in their neighborhood.[1] The lords of the council directed the warden of the Cinque Ports to allow no person or ship to depart until further instruction.[2] From various places came in reports about the pursuit of the conspirators and examinations that were being made.[3] By warrant of the council castles and towns were seized.[4] Dudley Carleton wrote to the earl of Salisbury, secretary of state, hoping that Salisbury and "the rest of my honorable LL:" would not suspect him of any part

[1] S. P. D., James I, xvi, 8 November 1605.
[2] *H. M. C.*, 13th report, appendix, iv. 132.
[3] S. P. D., James I, xvi, 9 November 1605.
[4] *Ibid.*, 13 November 1605.

in the plot, and so release him from detention.[5] Numerous petitions and communications relating to the plot and to suspected conspirators were sent to the council.[6]

Many miscellaneous orders and directions were issued for the public service. In 1611 instructions were sent to the commissioners of the middle shires for the better government of those districts.[7] From time to time the king's directions to be observed in the keeping of Lent were sent about by the council.[8] In 1621 "Their Llps. did this day giue order that the Orders published the last yeare for the due keepinge and observacon of Lent bee nowe forthwth new printed and published against this next ensueing Lent."[9] In 1628 the attorney general was to draw up a proclamation that no meat should be eaten during Lent or on prohibited days except by licensed persons.[10] Another such proclamation was ordered in 1632.[11]

The council often concerned itself with matters of public health. In 1629 and 1630 there were numerous orders for preventing spread of the plague.[12] In 1632 a proclamation was ordered in council, that since divers persons from various shires were repairing to his majesty's court to be healed of the disease called king's evil, and since there was danger that this assembling might help to disseminate the plague, such recourse was forbidden until the next Christmas.[13] In 1636 there was again a great deal of council business about it.[14] At this time the king, in a council of sixteen, considering how dangerous would be concourse of people liable to infection, ordered the lord chamberlain to stop all plays and spectacles until further order.[15] At times summary justice was dis-

[5] S. P. D., James I., xvii, 2 December 1605.
[6] *Ibid.*, xvi, xvii.
[7] *Ibid.*, lxv. 18.
[8] *H. M. C.*, 11th report, appendix, iv. 18.
[9] P. C. R., xxx, 29 January 1620-1.
[10] *Ibid.*, xxxvi, 20 January 1627-8.
[11] *Ibid.*, xli, 27 January 1631-2.
[12] P. C. R., xxxix.
[13] *Ibid.*, xlii, 6 June 1632.
[14] *Ibid.*, xlvi.
[15] *Ibid.*, 10 May 1636.

pensed. By order of the council to the lord mayor of London: [16]

> Whereas wee vnderstand . . . that the house of one Thomas a Butcher in the Parrish of St Buttolphs wth-out Algate is infected wth the Sickness, and that the said Thomas, haueing a boy of about :16: yeares of age sick in his house of the Plague, and full of the Tokens, did giue vnto him a groate and direccons to goe to the house of John weekes in white Chappell to gett him a Lodging, who refusing to entertaine him, the said Boy was harboured at a poore widdowes house the next doore to the said weekes, where he dyed the same night. Wee haue therefore thought good to the end that others may take example by this ill Carriage and dealing of the said John Thomas hereby to pray and require yo^{w} to cause him . . . his wife and Children to bee forthwth put vnto the Pesthouse.

From the council came various orders about felling timber, especially for the royal navy.[17] It dealt with numerous matters relating to postmasters and the posts.[18] There were many orders and directions about riots, apprehending and punishment of rioters.[19] In 1631 and 1632 there was a great number of orders from the council about collection of money to assist in repairing St. Paul's.[20] Frequently orders were issued about witches.[21] There were many regulations and there was much other business about taverns.[22] In 1633 and 1634 there was considerable business relating to the fens.[23] From time to time town charters were considered, amended, or granted, as, for example, " The heades of a Charter for Colchester, prpounded at the Counsell Boarde." [24]

[16] *Ibid.*, xxxix, 11 April 1630.
[17] For example, *ibid.*, xl.
[18] *Ibid.*
[19] *Ibid.*, xli.
[20] *Ibid.*, xlii.
[21] *Ibid.*, xliii.
[22] *Ibid.*
[23] *Ibid.*
[24] *Ibid.*, xliv, 21 November 1634.

There was constant communication between the privy council and the local officials—sheriffs, lord lieutenants, justices of the peace, and authorities in the towns. In 1604 the lords of the council asked the "Commissioners for Sewers" of Rye to report about the filling of the harbor.[25] In 1605 the council directed the justices of the peace for Hertfordshire to repair the highways, according to the statutes.[26] About the same time they bade these same justices restrain the carriers of Norwich and Cambridge from using heavy wagons because they cut the roads and made them unfit for travel by the king.[27] In 1606 the inhabitants of King Street, Westminster, petitioned the council to move itinerant vendors of roots from that street to the market house in the Round Wool Staple.[28] Next year the council sent a communication to the mayor and the justices of the peace of Norwich: let them levy a tax on the inhabitants for decent maintenance of the established ministry there.[29] About the same time it ordered the justices of Kent and of Surrey to execute the laws for suppression of rogues: the highways about London were infested with rogues, vagabonds, and soldiers lately come from the Low Countries.[30] In 1609 an order of council went to a certain one bidding him fell two hundred tons of timber in Bedfordshire for repairing a bridge.[31] The justices of Essex and of Hertfordshire were ordered to collect the arrears of the rate levied weekly for charitable uses. For the better preservation of game they were to take bonds of poulterers and others not to offer any for sale.[32] In 1610 the council directed the lord chief justice and the chief justice of common pleas to examine four

[25] *H. M. C.*, 13th report, appendix, iv. 131.
[26] S. P. D., James I, xiv, 25 May 1605.
[27] *Ibid.*, 24 June 1605.
[28] *Ibid.*, xxiv, 1606(?).
[29] *Ibid.*, xxvi, 15 February 1606-7.
[30] S. P. D., James I, xxvii, May (?) 1607.
[31] *Ibid.*, xliii, 16 February 1608-9.
[32] *Ibid.*, xlviii. 23.

apprentices sent up prisoners for alleged sedition in Norwich.[33] In 1614 the lord mayor of London informed the privy council that brewers were making stronger beer and ale than was allowed by law, hence consuming larger quantities of corn and malt, and so were raising the price of corn and of meal in the markets. The council ordered that this be not done, allowing, however, stronger drink to be brewed for ships about to set forth on long voyages abroad.[34]

In 1622 the mayor and others of Chichester sent in the names of those who did and those who did not contribute to the king's service—a benevolence, perhaps. They said that some of the merchants were poor, and not able to give more.[35] That year the mayor and the burgesses of Reading asked the council to suppress some of the ale-houses, that there might be a larger quantity of corn, to relieve the poor in time of scarcity.[36] The mayor and the recorder of Wycombe told the council they had reduced the number of ale-houses from twenty-one to nine; a certain keeper of a disorderly ale-house suppressed had opened it again, pleading license from a justice of the peace; they wanted leave to punish him according to the law.[37] In 1623 the privy council ordered the mayor of Reading and others to attend, because of contemptuous conduct towards Lord Wallingford: in a dispute the town officials had proceeded against his under-steward. The charter of the town was inspected; the mayor and the burgesses, recalcitrant, were committed to the Marshalsea; and the under-steward was by order of the council restored to the place from which they had put him.[38]

[33] *Ibid.*, liv, 20 May 1610.
[34] P. C. R., xxvii, 27 March 1614.
[35] S. P. D., James I, cxxx, 9 May 1622.
[36] *H. M. C.*, 11th report, appendix, vii. 222.
[37] S. P. D., James I, cxxxix, 12 March 1622-3.
[38] P. C. R., xxxi, 18 March 1622-3, 1, 15 April, 27, 30 May 1623.

At a council of seven in 1623:

> This daye diuerse of the Justices of the peace of westminster & Middlesex were sent for before their Lps for the enquierie and order to bee taken, for the repressing of frequent insolencies and abuses informed to bee offred vnto Strangers, and many tymes to the offence of the Amb^rs of forraine princes and Stats both in the streets of London and westminster and the liberties and at their houses notwithstanding diuerse sondrie admonitions and Cōmands heretofore giuen both by his ma^tie and by their Lps in that behalf.

The council ordered them to take further measures at once.[39] About that time the mayor and the aldermen of Newcastle declared that notwithstanding their care and notwithstanding several orders previously sent from the council, the river was being injured by emptying ballast into it; they prayed an order of council that no ship depart without the master declaring under oath where he had emptied his ballast. Such an order was at once issued, violation to be in contempt of the council.[40] In 1628 the council commanded the justices of Surrey to give information about the names, quality, and condition of all recusants living in Surrey near London.[41]

There were frequent orders and regulations about London and its environs.[42] Orders of council were often sent giving permission to build, concerning disputes about new buildings, and, at one time, about demolishing edifices near St. Paul's in connection with repairing the cathedral.[43] A great many commands issued about the cleansing and repairing of streets, highways, and bridges.[44] In 1633 the council noticed the nuisance to the royal family from the smoke of brew-houses and kilns in Westmin-

[39] P. C. R., xxxii, 8 September 1623.
[40] *Ibid.*, 21 November 1623.
[41] S. P. D., Charles I, cxxii, 19 December 1628.
[42] For example, P. C. R., xl, li, lii.
[43] *Ibid.*, xli.
[44] *Ibid.*, xlii.

ster. There was great annoyance at Whitehall and at St. James's. Ordered, that for a time no sea-coal be used thereabouts.[45]

The council was often occupied with efforts to foster industry and heighten prosperity and trade. In 1608 the council bade the mayor and the recorder of London examine a petition about a project for fixing colors dyed with logwood.[46] In 1616 there were "Resolutions in Councell, after a Longe and graue deliberation for setling and advancing the greate worke of Dying and Dressing in England, and removing the Impediments and difficulties that doe now interrupt the same."[47] Six years later the councillors were employing their utmost endeavors to learn why the cloth industry had decayed; letters were being sent to all the clothing counties that two or three persons well-instructed be sent up to deliver their opinions; merchants had declared the cause to be increase of impositions recently laid upon cloth.[48] In 1626 the council was occupied with granting a patent for preparing leather.[49] Next year a duty of six pence per chaldron of all coals transported from Newcastle was ordered paid to support vessels defending the eastern coasts.[50] In 1632 a certificate was sent by the mayor of Southampton to the lords and others of the privy council about persons thought most fitting to engage in the retail sale of tobacco. Such information had been required by letters from the council.[51] From time to time there were orders about regulation of the fisheries, restraining Frenchmen from fishing off the English coast, about the trade in fish, about export

[45] *Ibid.*, xliii, 15, 30 September 1633.
[46] S. P. D., James I, xxxvii, 21 October 1608.
[47] P. C. R., xxviii, 26 September 1616.
[48] Thomas Locke to Sir Dudley Carleton: S. P. D., James I, cxxix, 13 April 1622.
[49] P. C. R., xxxiv, 27 July 1626.
[50] *Ibid.*, xxxvi, 1 June 1627.
[51] *MSS. of Southampton, H. M. C.*, 11th report, appendix, iii. 28.

of fish.[52] There were numerous orders concerning supply, sale, transport, and distribution of corn.[53] There was frequent consideration in the council of business relating to soap, tin, timber, tobacco, coal, and the coal trade, and numerous regulations and orders about brewing.[54]

According to modern conceptions, the second principal category of work done by the council was its part in legislation. This can be studied, however, best in connection with the relations between council and king and council and parliament, to be dealt with below. The other great category would be in respect of judicial functions. So extensive and constant were the council's judicial activities that often the register was known as the book of council causes. As the High Court of Parliament was so called because originally, when most of the activities of government were judicial, it had seemed to be predominantly a council and a court, so had the king's council originally assisted him especially with advice and with exercise of functions mainly judicial. As the monarch embodied the highest judicial authority in the kingdom—he could always be a special court and a high court save where jurisdiction had been devolved to other particular courts—so had the council in assisting him shared this judicial authority, and often been more a court than anything else. From the older point of view, perhaps, all the work of the council concerned causes, the deciding what was to be done, what of right should be done, how it should be done, and giving orders to enforce the decisions. A great part of all ordinary judicial work had long been dealt with according to well crystallized legal systems in regular courts to which had been delegated judicial authority of the king or in the local courts that were subordinate to him and to his judges; but there had continued to be much that fell not easily within the jurisdiction of

[52] For example, P. C. R., xl.
[53] For example, *ibid.*, xl, li, lii.
[54] *Ibid.*, xlix, li, lii.

any of the courts of law, and much that could be settled more justly and more expeditiously by the king and his assistants in council. It might be said that judicial work that had not been delegated to some particular court, remained in the king and his council; and by prerogative other judicial work could be drawn to the same jurisdiction. Charles I declared this explicitly in 1631, when he granted a commission in which he named all the members of the council severally to be a standing committee to hear and determine controversies touching the jurisdiction of any of his majesty's courts of law: "It being manifest that our said Justce . . . is originally and in Sovereignitye onlye and intyrely in our selves." [55] This, he said, was for good government and avoiding delay. The work would be executed, when necessary, by all the councillors or any six of them.

In 1605 the king instructed the privy council that no person was to crave remedy of the council in matters of justice, since that would make it judge of actions between one party and another, for whom it could not distinguish and discern particulars so well as the judges in courts of law. Yet, if the councillors had some special information, or if the king referred to them a particular case, they were to make reference in favor of such party to the court where the case was pending.[56] In 1606 the earl of Salisbury wrote about a dispute that had arisen between the Spanish ambassador and the Dutch ambassador over a ship taken in the narrow seas: "his Ma^{ty} well knowes, that those grounds can never be cleared, (where assertions are contrary) without proof and oath made before a Judg, (with all wch, wee as Counsellors of state, haue no manner of participation)." [57] Yet numerous causes that concerned differences, contentions, or disputes were heard

[55] S. P. D., Charles I, cxc, 6 May 1631; Rymer, *Fœdera,* xix. 280.
[56] S. P. D., James I, xii, 9 January 1604-5.
[57] *Ibid.,* xviii, 15 January 1605-6.

and settled by the council, often by commissioners of the council—or, as they would have been called later on, a committee—appointed for that purpose.

Constantly there came to the council great numbers of petitions asking for assistance or justice. It would seem that many sincerely desired to get their causes heard before the council. In 1608 James appointed certain subcommissioners, as they were styled, to hear private suits presented to him, for the better ease of the body of the councillors, "(who in regard of their place and neernes to o^{r} pson are often tymes so occupied in the affaires of greatest moment of o^{r} estate) as they cannot attend the care of private suites." [58]

In 1612 the council having heard a cause between the university and the city of Oxford, decided that a certain walk was the property of the university, but that the city might enter it in search after felons or in hue and cry.[59] In 1614 in a cause "restinge before your Lps by petic̄on" between two parties concerning dispossession from a piece of property in Cornwall, the council referred the matter to Sir Francis Bacon, attorney general, and his report being approved, an order was accordingly issued.[60] Shortly after, petitions having been offered to the council by both parties, a difference came before the board concerning the Dutch congregation of Colchester and certain persons of that place, about the trade of bays and stay making there. The council thought the matter should have deliberate hearing, and ordered the attorney general to examine both parties, then report to the council his opinion what course should be taken.[61] "Upon Sonday the second of June," runs a note in the record for that year, "the Lordes haue appointed to heare the Cause con-

[58] S. P. D., James I, xxxvii, 16 November 1608.
[59] *Ibid.*, lxx, 23 July 1612.
[60] P. C. R., xxvii, 20 March 1613-14.
[61] *Ibid.*, xxviii, 20 February 1615-16.

cernyng the Woolgrowers and Staplers, at Nyne a clock in the forenoone. At wch time those whome it concernes are to attend." [62] A little later the lords heard a "Controuersie" between the mayor, the burgesses, and the society of merchants of Hull on the one part and divers other merchants free of the company of the Merchant Adventurers of England on the other concerning free trade and exportation of lead to Germany and the Low Countries. A committee of the council was appointed for further consideration.[63] Somewhat later four lords heard the "Cause" between the miners of Derbyshire and the fee farmer of the third part of the lead ore appertaining to the dean and chapter of Lichfield.[64] In 1627 the lord treasurer, the lord president, the earl of Dorset, and the chancellor of the exchequer were appointed "Referees, in the cause" between the earl of Ormond and the earl of Desmond, who were summoned to come to the council chamber at Whitehall, with their learned counsel if they desired.[65]

In 1627 in a council of fourteen: [66]

Whereas vpon an humble Peticon presented to his Matie by Sr John Sauage k^t concerning the possession of a Manner called Bradley situate in County of Southton now in question betweene the pet^r and Thomas Tayl^r gent: It pleased his Matie to referre the consideracon of the said Peticon to the Lo: Keeper, the Lo: President, and the Lo: Steward. ffor asmuch as the lls Referees, will be ready to heare the cause w^thin these fewe dayes, soe it be prepared, and made ready by the Councell learned, on both sides, and fitted for their heareing. The said lls: Referees haue therefore thought fitt and ordered that Sr Hennage ffinch k^t Recorder of the Cittie of London, being of Councell for the said S^r

[62] *Ibid.*, 20 May 1616.
[63] *Ibid.*, xxx, 24 June 1619.
[64] *Ibid.*, 26 November 1619.
[65] *Ibid.*, xxxv, 1 February 1626-7.
[66] *Ibid.*, xxxvi, 12 June 1627.

> John Sauage; and mr william Noye for the said Taylor shall accordingly prepare the cause and make it redie for their lls: heareing at the tyme their lls. shall assigne for that purpose. whereof both the said Mr Recorder and Mr Noy are required to take notice, and Sr John Sauage, and the said Taylor to attend them, wth such writings, Euidences and wittnesses, as they shall thinck necessary for the expediting of the Suite.

In respect of this Sir John Savage petitioned that suits and proceedings in all other courts against him might be stayed, excepting those directed by their lordships to be had in chancery. The "LLo: Comittees" thereupon ordered that all suits whether in Star Chamber or any other court should be for the present forborne.[67]

In 1628 the council heard a cause between the earl of Cork and two others, listening to the arguments at length of both parties with their counsel.[68] In 1630, on petition, was considered the case of a ship attached by a certain one of Amsterdam; whereupon "A Reporte drawne by consent, wch order to be entred in the Register of Counsell Causes, and so remayne as an Act of Counsell."[69] At another time a committee of two of the council heard the difference between a man and his wife, and having found no sufficient cause for anything testified why they should live estranged from each other, admonished and exhorted them to forget all things past, and thenceforth live together as husband and wife should live. "Wherevpon they ioyned handes, and the said Edwarde Wollasrot did there promise to their L̄ps to receive, love, treate, and maintaine his said wife, according to his meanes, so that on his parte there should be no just cause of complaint."[70] In 1634 Lady Banister complained of ill usage from her husband. The king referred her petition to the council,

[67] P. C. R., xxxvi, 4 July 1627.
[68] *Ibid.*, xxxviii, 31 July 1628.
[69] *Ibid.*, xxxix, 31 March 1630.
[70] *Ibid.*, xl, 17 November 1630.

and she asked to be heard at the board, several women to attend her as witnesses. The council resolved to hear the "cause" [71] Many controversies or causes were heard and determined, usually by committees of the council.

Sometimes the council intervened to keep matters from being taken to other courts. In 1608 a communication signed by five of the board enjoined Sir Gilbert Wakering to refer a difference between himself and another to arbitration, and not have his opponent arrested.[72] In 1623 a council directed the chief baron and others of the exchequer to free from an unjust suit one who had acted by command of the council in the king's service.[73]

The privy council acted as a court in many matters pertaining to the interests of the king or in things that concerned the government or the common weal. In 1605 Sir Francis Hastings was examined before the council and questioned by the lord chancellor and the secretary of state respecting a petition he had drawn up for gentlemen of Northamptonshire; the petition was held to be factious and seditious; he was ordered to his country house, and to cease meddling in public affairs.[74] In 1611 the council was occupied with charges against the earl of Northumberland.[75] In 1628 a gentleman was called before the council and privately examined. "For reasons best knowne vnto theire LLopps" he was commanded upon his allegiance to remove his dwelling and his family ten miles from London before the end of the month, and to go no place within ten miles of the king's court or of the city of London until further order.[76] In many instances those against whom the council wished proceedings begun were referred to Star Chamber. In 1631, after a riot in the

[71] *Ibid.*, xliv, 10 June 1634.
[72] S. P. D., James I, xxxv, 20 July 1608.
[73] *Ibid.*, cxlv, 26 May 1623. [74] *Ibid.*, xii, February (?) 1604-5.
[75] Despatch of Antonio Foscarini, 28 July 1611 (N. S.): Venetian Transcripts, ix. 51. [76] P. C. R., xxxvi, 12 January 1627-8.

Forest of Braden, the court of Star Chamber ordered numerous persons to be arrested and brought before it, and its order was strengthened by a warrant issued by the privy council.[77] About the same time the king with eighteen others in council examined a certain one sent for by warrant from the board and brought up by a messenger of the council. He was asked to answer complaints made against him in respect of the proper making of cloth according to the statute. The defendant having heard the charges replied. Then the king and the council decided that the attorney general should examine him, the attorney to proceed against him and certain others under like charges in the Star Chamber as he should find cause.[78]

In 1628 from a council of the king and nineteen an order signed by eleven went to Lord Dunsmore: the king and the council had heard of a quarrel between him and Lord Butler; let him appear before the next council in Whitehall, bringing a certain other one with him; meanwhile abstain from any meeting with Lord Butler, and behave to that nobleman in all respects as became his own rank.[79] A similar letter was sent to Lord Butler. In 1631 the council issued to John Castle, Esquire, an open warrant with a clause of assistance requiring all the king's officers and loving subjects to assist in searching for his daughter, Catherine, stolen from him, and a warrant for the arrest of two men.[80]

Finally the privy council acted as the regular court of appeal from the courts of the island possessions about England, and this in the end was to survive as its important judicial function, for in later years England would build up a vast colonial empire, and the privy council would remain the high court of appeal from outlying

[77] P.C.R., xli, 29 November, 12 December 1631.
[78] *Ibid.*, 21 December 1631.
[79] *Ibid.*, xxxviii, 28 September 1628.
[80] *Ibid.*, xli, 5 November 1631.

dominions. In the first half of the seventeenth century, however, this jurisdiction was substantially confined to the hearing of appeals from the Isle of Man and from the Channel Islands. In 1617, for example, an inhabitant of Jersey appealed to the privy council from a sentence given against him by three of the jurats of that island.[81]

In the course of the judicial work many were summoned to appear before the council; some were committed to custody; some were punished. In 1623 a certain one petitioned the lord president: he had been summoned to appear before the council; he had been attending daily for six weeks, but had never been called on to appear before the board; he prayed to be allowed to return home on urgent business.[82] In 1629 and in 1630 there were numerous summons.[83] In 1630, when the government had been remodelling parliamentary boroughs wherever it could, Oliver Cromwell made some opposition in Huntington. On complaint about this he was summoned to appear before the council: [84]

> This day Oliver Crumwell Esqr, and Willyam Kitborne, gent having bene formerly sent for by warrant from the Boarde tendered their apparences accordingly wch for their indempnities is entred in the Register of Counsell causes. But they are to remaine in the custody of the Messenger untill they shalbe dismissed by their L$\bar{p}$s.

Sometimes opposition arose. In 1634 there was protest at Stamford about the council arresting persons by messenger, without legal process. A certain one said: "That the King by the Statt: of Magna Charta, ought not to send for any man by a Messenger, but by a prcesse, & that the King had prmised the contrary." [85]

[81] *Ibid.*, xxix, 1 August 1617.
[82] S. P. D., James I, cxlvi, 13 June 1623.
[83] P. C. R., xxxix.
[84] *Ibid.*, xl, 26 November 1630.
[85] *Ibid.*, xliii, 7 February 1633-4.

Many were committed to custody by the privy council. About 1604 a man was sent to the Gatehouse by the lord president for speaking scandalous words about the king's right to the crown.[86] In 1620 the council issued warrants to the lieutenant of the Tower and to the warden of the Fleet to receive certain ones.[87] Two years later John Pym, confined to his London house by order of the king, having humbly sued to be made free from that restraint, the king, in respect that his health was impaired, permitted him to go also to any of his country houses, until further order.[88] About that time Lord Say was committed to the Fleet from the council table "for hindering the contribution or benevolence in his quarters."[89] Sometimes there was conflict of jurisdiction. In 1627 Sir William St. John had been sent to the Fleet by order of the king and his council. Apparently he had been allowed to go out. At all events he was arrested at the suit of a certain one and imprisoned. He then petitioned the council, which ordered the lord keeper to grant "a Habeas Corpus" for bringing him before the board to answer certain matters charged against him on the king's behalf.[90]

In 1628 Charles I wrote to parliament: "Wee or our Priuy Councell haue power to comitt any man without the cause shewed." In the future, however, he would not confine anyone for not lending money or for any reason not concerning public good and safety.[91] He assured parliament that he would maintain the right that no subject should be imprisoned without assignment of the reason, except that he must reserve to himself and his privy council the power to do so in cases of emergency, the nature of which could not always be revealed from reasons of

[86] S. P. D., James I, xi, 1604(?).
[87] P. C. R., xxx, 27 June 1620.
[88] *Ibid.*, xxxi, 20 April 1622.
[89] Chamberlain to Carleton: S. P. D., James I, cxxxi, 8 June 1622.
[90] P. C. R., xxxv, 24 March 1626-7.
[91] S. P. D., Charles I, ciii, 12 May 1628.

state.[92] The Petition of Right was being agitated, and only a few days later Charles accepted it as a statute. One of the principal complaints embodied in the petition concerned this very matter. "Against the tenor of the said statutes, (37 Edward III. c. 18; 38 Edward III. c. 9; 42 Edward III. c. 3; 17 Richard II. c. 6) and other good laws of your realm, to that end provided, divers of your subjects have of late been imprisoned without any cause showed, and when for their deliverance they were brought before your Justices, by your Majesty's writs of Habeas Corpus, there to undergo and receive as the Court should order, and their keepers commanded to certify the causes of their detainer; no cause was certified, but that they were detained by your Majesty's special command, signified by the Lords of your Privy Council, and yet were returned back to several prisons, without being charged with anything to which they might make answer according to the law." The parliament therefore petitioned " that no freeman, in any such manner as is before-mentioned, be imprisoned or detained." [93]

In 1629, in 1630, and later on, however, the council continued to commit men to custody. Often now, however, they were put into private custody, principally of the messengers of the council.[94] In 1631 the mayor of Harwich was committed by warrant of the council to the keeper of the Marshalsea, for contempt in refusing to come, after he had been sent for by warrant to appear before the council.[95] In 1633 there was issued from the council "A Warrant to Comitt William Prynne safe Prisoner to the Tower; wthout giueing free accesse to him vntill further order." [96]

[92] Salvetti to the grand duke of Tuscany, London, 24 May 1628 (N.S.): *H.M.C.*, 11th report, appendix, i. 150.

[93] 3 Charles I. c. 1: *Statutes of the Realm*, v. 23.

[94] P. C. R., xxxix, xlvi.

[95] *Ibid.*, xl, 31 January 1630-1.

[96] *Ibid.*, xlii, 1 February 1632-3.

Sometimes, though not very often, the council ordered punishments given. At Westminster in 1616, Sir John Grimes, the favorite of Sir George Villiers, was interred with solemn rites. With mock solemnity certain "rude knaues" buried a dog. "Diuers of them haue ben whipt by order from the counsaile."[97] In 1620 certain merchants of the East India Company petitioned the council that the master of one of their vessels, captured by the Dutch, might be punished, since they believed he was in secret communication with the Dutch and had betrayed them.[98] In 1638 Charles, with advice of the council, ordered that Archibald, the king's fool, for certain scandalous words of a high nature spoken against the archbishop of Canterbury, should have his coat pulled over his head, and be discharged from the king's service, the lord chamberlain to see that the order was carried out, after which proceedings in the court of Star Chamber.[99]

It is abundantly evident that in the course of all its business the council received and considered unnumbered petitions. It issued proclamations, orders, and warrants. It exchanged communications with local authorities, and with associated or subordinated councils.

A considerable part of the council register has to do with record of petitions received by the council, or referred to the council by the king. These petitions were from all classes of people and concerned every variety of affairs. In 1605 the masters and rulers of the Company of Thames Watermen asked that ships from London might carry in their crews one waterman for each hundred tons burden, because the watermen were too numerous since the recent peace.[100] The earl of Northumberland petitioned the council for a little more liberty in his con-

[97] Chamberlain to Carleton: S. P. D., James I, lxxxvi, 20 April 1616.
[98] *Ibid.*, cxvi, [10 July] 1620.
[99] P. C. R., xlix, 11 March 1637-8.
[100] S. P. D., James I, xv, July 1605.

finement.[101] Lady Arabella Stuart prayed the council to intercede in her behalf to remove the displeasure of the king.[102] In 1620 the justices of the peace of Wiltshire wrote that the weavers and the spinners were complaining of great distress, many thousands being out of employment, that they had appealed to the clothiers, who replied they could not sell their cloth. At the same time the weavers petitioned the council for relief.[103] Two years later in a council of the prince and eleven, was received the petition of Lady Parker that the board would compel her husband to pay her the allowance of £200 a year which it had commanded, since she was destitute. Ordered that he pay half within a short time, and regular half-yearly installments in the future, he to give assurance that he would do so.[104] Some of the petitions were addressed to the most honorable lords of his majesty's most honorable privy council, some to the lord president, many had been made to the king and had by him been referred for consideration to the council. In 1631 it was ordered that when anyone presented a petition to the board in the name of another, it should be signed either by the person who presented it or by him for whom it was given.[105]

Warants were issued by the council to give validity to various acts. Some were for bringing certain ones before the council. In 1629 an open warrant was directed to the messenger of the king's chamber to bring before their lordships the mayor of Harwich, the town clerk, a certain brewer, and one other.[106] In 1631 the council ordered that henceforth the clerk should not present for signature any letters or warrants with blanks where the names were to be inserted, but that these be filled in before the lords set

[101] *Ibid.*, xxii, 9 July 1606.
[102] *Ibid.*, lvi, July 1610.
[103] S. P. D., James I, cxv, 11 May 1620.
[104] P. C. R., xxxi, 3 April 1622.
[105] *Ibid.*, xli, 9 December 1631.
[106] *Ibid.*, xxxix, 15 June 1629.

their hands to the papers.[107] In 1636 it was said that of late years divers acts and warrants had been presented to the council and signature procured to them as acts of the council, without any notice being given to the clerks to whom knowledge and care of such things belonged. Therefore in future no warrants or orders should be presented to the council for signature until first signed by a clerk of the council.[108]

In the time of James I most proclamations were issued by the king, as his orders, though a smaller number were given forth by advice of the council.[109] Under Charles I some of the proclamations were issued by the king without intervention of the council, though the council sometimes took the necessary measures to enforce them. In 1631 it was ordered that no proclamation specified to be done with advice of the board should pass and be brought to the great seal until it had been read at the board and approved there; and the attorney general was given notice that the king's printer should not print any such proclamation until notified by the clerk of the council attending that their lordships had seen and approved it.[110] "Whereas," says a notice in the register in 1632, "a Proclamac̄on for the due obseruac̄on of Lent and other fasting dayes, drawen by Mr Atturney genāll, and signed by his Matie was this day presented to the Board, Their Lopps gaue order that the same should be sent to his Mats Printer forthwith to be printed according to the Vsuall custome."[111]

The council had constant relations with the Star Chamber, which was, indeed, its other self, in respect of which,

[107] P. C. R., xl, 20 May 1631. [108] *Ibid.*, xlv, 17 January 1635-6.

[109] For example, a proclamation headed: "Orders Conceived by the Lords of His Maiesties Priuie Councell, and by his Highnesse speciall direction, commanded to bee put in execution": S. P. D., James I, clxxxvii. 36 (1615).

[110] P. C. R., xli, 22 July 1631. [111] *Ibid.*, 27 January 1631-2.

however, a formal distinction was preserved. It carried on intercourse also with other councils and commissions like itself, but subordinate to it. From time to time communications were sent to the president and the council of Wales.[112] Others went to the president of the council of the north.[113] There were also not infrequent instructions or communications to the commissioners of the borders, about preserving order and punishing or trying certain ones.[114] In 1605 the commissioners of the borders reported to the privy council the arrest of certain malefactors.[115] Next year the commissioners answered complaints about their severity alleged by inhabitants of Riddesdale and Tynesdale.[116] About this time came instructions from the council to execute the law against the Grahams, and notice that certain prisoners in London were to be sent to the commissioners for trial. They were instructed to assist the earl of Cumberland with respect to his lands.[117]

[112] For example, *ibid.*, xxx, 30 November 1618.
[113] For example, *ibid.*, xxix, 31 March 1618.
[114] S. P. D., James I, xii, 7 February 1604-5; xxvi, 20 January 1606-7.
[115] *Ibid.*, xvi, 14 November 1605.
[116] *Ibid.*, xx, 27 April 1606.
[117] *Ibid.*, 29 April 1606.

CHAPTER VIII

KING, COUNCIL, AND PARLIAMENT

AT THE beginning of the seventeenth century the privy council of England was well recognized as the principal organ of government, under the king; and this was apparently so well understood that it was generally not discussed but taken for granted. An aggressive minority, constantly more striking and important, was proclaiming the power and the greatness of parliament, and presently they were by force and revolution to make their contentions good. In ordinary times, however, during the first half of the seventeenth century, the council had a much larger part in government than the houses of parliament had.

In prospect of what it was striving to be, in respect of what its champions were claiming for it then, there was at this time more writing about parliament than about the king's council, as there has been in times succeeding. None the less, contemporaries described the position of the council and wrote about its relation to the king.

Francis Bacon, composing his essay "Of Counsel" some time between the years 1607 and 1612, declared that the inconveniences observed in calling and using council were three: first, revealing affairs, whereby they became less secret—and the circumstances of his age as well as the records of other times assuredly confirm what he says; secondly, weakening of the authority of princes, as if they were less of themselves; thirdly, the danger of being unfaithfully counselled, more for the councillors' good than of him advised. Bacon recounted the fable of Metis with child devoured by Jupiter, from whose head came Pallas all armed.

> Which monstrous fable containeth a secret of empire; how kings are to make use of their council of state: that, first, they ought to refer matters unto them, which is the first begetting or impregnation; but when they are elaborate, moulded and shaped in the womb of their council, and grow ripe and ready to be brought forth, that then they suffer not their council to go through with the resolution and direction, as if it depended on them; but take the matter back into their own hands, and make it appear to the world, that the decrees and first directions . . . proceeded from themselves, and not only from their authority, but, the more to add reputation to themselves, from their head and device.

Councils at present, he said, were in most places only familiar meetings, where matters were rather talked of than debated. And they ran too swift to the order or act of counsel. It were better if in causes of weight the matter were propounded one day and not spoken of until the next, as was done in the commission of union between England and Scotland, a grave and orderly meeting.

Raleigh, writing some time before 1619, said it should be noted that while the use and authority of senates and privy councils were very much needed, yet such bodies had no authority to command except in the sovereign's name; for if councillors themselves possessed power to order, then they would be sovereign and all execution would be at their pleasure; that would detract from majesty, which was a thing so sovereign and sacred that no citizen or subject of what quality soever might touch or approach it.[1] In another place: "that which is done by the king, with the advice of his private or privy-council, is done by the king's absolute power." [2] About 1649, John Selden, or one of his associates, said that the privy council

[1] *The Cabinet-Council, Works,* viii. 46.
[2] *The Prerogative of Parliaments, Works,* viii. 213.

was a company of choice men as the king willed, to whom was committed consideration of all the weighty affairs of the kingdom; "but nothing can be concluded without the King's *Fiat*, which regularly should follow upon the premisses, according to the major vote; but more ordinarily suiteth with that which best suiteth with his pleasure." [3]

In 1605 James I spoke of "Or Councell, and officers of Estate from whome (as our subordinate Ministers) so many men are to receive rules, and directions as well concerning our own Publicque and Priuate Seruices as for the Universall satisfaction of our subiects." [4] In 1609 he caused commissioners to be appointed to hear suitors to the privy council on matters relating to the plantation of Ulster: "our priuy Counseil whome, in regard of their great Imployments, we are desirous to spare from those things, wch are not of such difficultie, and consequence, as may not be conveniently done wthout them." [5] The council had much sense of its own dignity and importance. In 1625: "Also another thing was resolued to be propounded to the King, that his Mats seruices would suffer if the honor & reuerence that was wont to be giuen to the priuy Councell of the King were not kept vp and maintained by the King, As also the ancient and honorable formes of the Court of England regularly kept and obserued." [6]

It has already been said, and it must be expounded more at length farther on, that the most important and delicate matters concerning statecraft and government were reserved by the king for his own management or communicated only to favorites or else to a small committee or group of the most trusted councillors in his service. Yet from time to time the most important matters were brought before all the privy council, especially on occasion

[3] Nathaniel Bacon, *An Historical and Political Discourse*, etc. (1749), p. 201.

[4] S. P. D., James I, xii, 9 January 1604-5.

[5] *Ibid.*, xlv, 11 May 1609.

[6] P. C. R., xxxiii, 29 March 1625.

of much perplexity and danger or when formal sanction was desired. This was true even of foreign affairs, though they were usually engrossed by the king himself or communicated only to the committee of foreign affairs.

In 1615 the king in council at Greenwich declared that he would like to pay his debts and make income and expenditures balance. The archbishop of Canterbury moved that the council should carefully consider the matter. There was long consultation in council at Whitehall. Sir Thomas Lake believed that parliament was the only recourse. Abate expenditures, the lord chamberlain said.[7] A little later ten of the councillors wrote to the king that they had considered his financial needs and whether a parliament should be called. They did not, they said, like to be responsible for a decision, so they asked him to appoint a full council in which the councillors at court might join with those then in London.[8] In 1626 the king declared to the lord mayor and the aldermen of London that he had resolved to send out a strong fleet; he "hath by the mature aduice of both his Councells, as well of State as of Warre taken this royall resolucon."[9] In July 1638 for the first time Charles communicated to the council an account of Scottish affairs, but the body of the council, previously for the most part ignored in such important affairs, at first gave no answer.[10] Afterward this business was much considered.[11] A few months later, however:

[7] S. P. D., James I, lxxxi, 24, 25, 28 September 1615.

[8] *Ibid.*, lxxxiii, 27 November 1615.

[9] P. C. R., xxxiv, 4 August 1626.

[10] "Dominica passata diede il Re, per la prima volta, notitia al suo Consiglio (e somarimente ancora) degl' affari di Scotia . . . I signori del Consiglio, non ricercati dal loro parere, e stimando, che per solo aviso fosse ad essi communicato, niente risposero." Despatch of Francesco Zonca, 16 July 1638 (N. S.): Venetian Transcripts, xxi, 59, 60.

[11] "Maturate con lunghe frequenti conferenze nel Consiglio Regio le proprie risolutioni, ha di nuovo in Iscotia la terza volta expedito il Marchese Hamilton." Despatch of Giovanni Giustinian, 24 September 1638 (N. S.): *ibid.*, xxi. 67.

"We dayly meete in councell but to little purpose, for in my opinion we are but just where you left us, divers triviall things have beene argued amongst us." [12]

In 1639, when the king was about to depart for the north, he left the government of England in the hands of the council, recommending certain matters to them.[13] Next year the advice of the council was again taken—about whether the king should go to Scotland.[14] In September, in a council of thirteen held at Whitehall, the attorney general was bidden prepare a commission directed to twenty of the principal members "and to all and every other the Lords and others of the Privy Councell who shall not attend his Matie in the Northern parts, authorising them or any six or more of them (whereof the Lo Arch Bp of Cant the Lo Keeper, Lo Trerer, Lo Privy Seale the Ea Marshall of England or Mr Secretary Windebank to bee one) by all good wayes and meanes in his Ma^ts absence to provide for the peace and safety of this his Ma^ts Kingdome and people, in the same manner and fforme as it was drawne vp (mutatis mutandis) at his Ma^ts going into the North anno 1639." [15] They were to hear and deal with all complaints and all matters touching ship money and other things thereto related, as granted by the former commission.

During 1640 various persons in favor with the people or with the Scots, but formerly in disfavor at court, were admitted to the council.[16] Probably this effort to make the council more agreeable to the king's opponents left

[12] Earl of Northumberland to Viscount Conway and Kilultagh: S. P. D., Charles I, ccccx, 29 January 1638-9.

[13] P. C. R., l, 26 March 1639.

[14] "Della giornata del Re in Iscotia si ripigliano le voci, e per Dominica sono comandate tutti li consiglieri di portarsi ad Antomcurt dove si troverà Sua Maestà per stabilire l'ultime risolutioni." Despatch of Giustinian, 27 July 1640 (N. S.): Venetian Transcripts, xxiii. 76.

[15] P. C. R., lii, 6 September 1640.

[16] Clarendon, *History of the Rebellion*, i. 259.

it much less royal confidence and favor. In July 1641 the Venetian ambassador reported that the work of the councillors was limited to little more than routine.[17]

In August 1641, in a council of fourteen, Charles gave a commission to some of the members of the council—the lord keeper, the lord privy seal, the marquis of Hertford, the lord high chamberlain, the lord chamberlain of the king's household, the earls of Bath and of Dorset—or any five of them, to pass all such bills or acts of parliament, during the king's absence in the north, as were specified in the commission.[18] In October, while the king was still in Scotland, letters came from Dublin to the earl of Leicester about the Irish rebellion. He immediately caused the privy council to be summoned. The house of commons was to meet next day. The councillors resolved that they would go in a body to the house of commons as soon as it sat and give information about the rebellion. In a part of his manuscript which Clarendon afterwards marked for omission he wrote:

> On Monday, the first day of November . . . the House of Commons was informed that the body of the lords of the Council desired to impart some what to them of great consequence and concernment to the kingdom; whereupon (after a short debate for the manner of their reception, there having never been the like occasion) chairs were placed in the middle of the House, and they sent for in.

The speaker desired them to sit down, and, they being covered, the lord keeper told the speaker that since the house of lords was not sitting they had thought fit to give

[17] "Per terzo s'è sospesa ogni autorità al Consiglio di Stato, e ristrettamente limitado alli Consiglieri l'uso delle cariche, che hora si riduce di semplicemente raccordare i mezzi a Sua Maestà per ben regersi con Prencipi stranieri, et quelli di dar esecutione alle vecchie et nuove leggi del Regno." Despatch of Giustinian, 19 July 1641 (N. S.): Venetian Transcripts, xxiii. 320.

[18] P. C. R., liii, 9 August 1641.

the news to the commons.[19] Early in 1642, after the king had left London, the council attended him once a week at Windsor, "though he could not consult them" says Clarendon, "upon what most concerned him."[20]

Clarendon has very well described the various devices used after Charles I dissolved his parliament in 1629. For better support of the extraordinary methods employed, to protect the agents and instruments used, to discountenance and suppress all bold inquirers and opposers, the council table and the Star Chamber enlarged their jurisdiction to a vast extent holding—as Thucydides said of the Athenians—for honorable that which pleased, and for just what was of profit. The same persons in their several rooms became a court of law to determine right and a court of revenue to bring in money. By proclamations the privy council enjoined to the people what the law did not enjoin, and prohibited that which was not forbidden, the Star Chamber censuring breach and disobedience of proclamations by imprisonment and very great fines; "so that any disrespect to acts of state or to the persons of statesmen was in no time more penal, and those foundations of right by which men valued their security, to the apprehension and understanding of wise men, never more in danger to be destroyed."[21] He declares that Noy, the lord keeper, upon a demurrer put in to a bill before him, which had no other equity in it than a decree of the lords of the council, said: "that, 'whilst he was Keeper, no man should be so saucy to dispute those orders, but that the wisdom of that board should be always ground enough for him to make a decree in chancery.'" From this great prejudice resulted to the council.[22] About 1637 Laud was believed to have declared: "That, as long as he sat there, they should know that an Order of

[19] *History of the Rebellion*, i. 397, 398, 408.
[20] *Ibid.*, p. 524
[21] *Ibid.*, p. 86.
[22] *Ibid.*, p. 92.

that Board should be of equal Force with a Law, or Act of Parliament." This was one of the further articles of impeachment brought against him in parliament in 1643.[23] From such actions and from such sayings it came that the rising opposition of parliament and of those people who took interest in the affairs of the realm was directed not only against the king but against evil counsellors and his privy council, and that in the revolution ensuing not merely the kingship but the council with it was swept away for the time.

Meanwhile the relations between parliament and council had been interesting and important. Members of the privy council took large part in the work of parliament, sitting in one or the other of the two houses, representing the interests of the king, participating in debate and legislation, and usually furnishing the avenue of communication between parliament and king. In council itself not a little of parliamentary procedure and legislative work was previously settled. A great deal of the policy and action of the king with respect to parliament was apt to be determined with the advice of some of the members of the council and was sometimes the result of decisions taken in council.

In the journals of the two houses as well as in the register of the council there is much about the participation of the privy council in parliamentary work. For the earlier period, in the *Journals* of Sir Simonds D'Ewes references repeatedly occur to bills being committed for consideration to those members of the house who were of the privy council, and to resolutions that information from the houses should be given to the king by such as were of the king's council.[24]

[23] *Lords' Journals*, vi. 267.

[24] For the position of the privy councillors in parliament and their participation in the work of the two houses under Elizabeth see E. P. Cheyney, *A History of England from the Defeat of the Armada to the Death of Elizabeth* (1917-26), ii. 185-8.

In October 1566 the house of commons being assembled, "report was made unto them (by Sir *Edward Rogers* Knight, Comptroller of her Majesties Houshold, as is most probable, in respect that he was the Chief Privy-Councellor of the House)", namely, that Elizabeth would give answer concerning the choice of a speaker.[25] In 1606 a bill about importation of wines was "Committed to Privy Council." Two years later a bill against unlawful assemblies was, after second reading, committed to "all the Privy Council of the House", all the lawyers of the house, and such others of the house as would attend.[26] In 1620 Sir Jerome Horsey "Moveth Petition, or a Motion by the Counsellers, to the King from this House, for Execution of the Laws against Recusants."[27] About the same time a certain one spoke: "To have some of the Privy Council move the King, that the Speaker may have Access to him."[28] A little after this a committee appointed by the house of commons to enquire about elections contained a long list of names headed by "All the Privy Councell of the House."[29] Again, "All the Privy Council of the House" were appointed to draw up a resolution urging the king to go to war for the Palatinate and assuring him of the support of the commons, and it was proposed that these councillors should present the resolution to the king.[30] In 1624, in the house of lords, a petition from merchants about the imposition upon hops and a like petition concerning wines were delivered to the lord president and referred to the privy council.[31]

In the privy council advice was given about what should be done in respect of legislation and managing parliament, and action taken accordingly in the council or elsewhere.

[25] D'Ewes, *Journals* (London, 1682), p. 120.
[26] *Commons' Journal*, i. 279, 389.
[27] *C. J.*, i. 508.
[28] *Ibid.*, p. 519.
[29] S. P. D., James I, cxix, 5 February 1620-1.
[30] *C. J.*, i. 639.
[31] *L. J.*, iii. 411.

In 1606 the lords of the council, in a statement containing sixteen heads, proposed "what Answeres were fitt to be gyven, and, what course to be holden concernynge the seu^rall greivances, presented to His Matie by the Co̅mon House of Parliament." [32] In 1610 a committee of twenty-eight, consisting mostly of members of the privy council, was appointed to consider a bill against transporting iron ordnance, gun metal, and iron ore, to meet in the council chamber at Whitehall.[33] In 1614, according to a manuscript, mutilated now, there was held at the King's direction a privy council of sixteen that long debated whether a parliament had best be held, each man according to his best understanding. The advice was to call parliament, because of the very pressing needs of the crown.[34] During one of the debates in this parliament Sir Henry Wotton, who spoke in favor of impositions, was seconded by the secretary of state; they were opposed by Wentworth and others.[35] In June a commission was given to the two archbishops, the chancellor, and all of the privy council, authorizing them to dissolve the parliament.[36] "Presently upon the dissolution pursuiuants were redy to warne diuers to be the next day at the counsaile table, from whence christopher Nevile Sr Walter Chuet Hopkins and Wentworth were yesterday sent to the towre." Others were ordered to bring in their notes and papers to the council to be burned.[37] In 1620 it is said that when great efforts were being made for election to the house of commons, Sir Thomas Edmondes and Sir Julius Caesar tried hard to be chosen knights of the shire for Middlesex; but the freeholders would have none of them, saying they

[32] S. P. D., James I, xxiii, 19 November 1606.
[33] *Ibid.*, lviii, November 1610.
[34] *Ibid.*, lxxvi, 16 February 1613-14.
[35] Chamberlain to Carleton: *ibid.*, lxxvii, 26 May 1614.
[36] Chamberlain to Carleton: *ibid.*, 9 June 1614.
[37] *Ibid.*

could not have access to such great ones as members of the privy council.[38]

In 1621 the king having advised with the privy council determined to adjourn the parliament.[39] That year a dramatic ceremony took place.

> His most excellent Matie com̄ing this daie to Counsell, The Prince his Highnes and all the Lords and others of his Ma^{ts} priuie Counsell sitting about him, and all the Judges then in London, W^{ch} were six in number there attending upon his Matie, The Clarke of the Com̄ons house of Parliament was called for and com̄aunded to produce his iournall booke wherein was noted and entries made of most Passages that were in the Com̄ons house of Parliament, And amongst other things there was written downe the forme of a Protestation concerning sundry Liberties Priviledges and ffranchises of Parliament, Wth wch forme of protestation his Matie Was iustly offended. Neverthelesse his Matie in a most gracious manner there expressed that he never meant to deny that house of Com̄ons any Lawfull Priviledges that ever they had inioyed, But Whatsoever Priviledges or liberties they had by any Law or Statute the same should be inviolatly preserved to them, And Whatsoeuer Priviledges they inioyed by Custome or Vncontrolled and Lawfull President his Matie Would be carefull to preserue, But this Protestation of the Com̄ons house soe contrived and carried as it Was, His Matie thought fitt to be razed out of all Memorialls, and vtterly to be innihilated both in respect of the manner by W^{ch} it was gained and the matter therein contained . . . These things considered his Matie did this present day in the full Assembly of his Counsell and in presence of the Judges declare the said Protestation to be invalid,

[38] Thomas Locke to Carleton: S. P. D., James I, cxvii, 16 December 1620.

[39] *Parliamentary History*, i. 1262.

annulled void and of noe effect, And did further *manu sua propria* take the said protestac̄on out of the Journall b̄ooke of the Clarke of the Com̄ons house of Parliament, And com̄aunded an Act of Counsell to be made thereupon, and this Act to be entred in the Register of Counsell causes.[40]

Early the next year it was thought the king would dissolve parliament; but men believed the privy council gave him good reasons not to do this.[41]

In 1626, the lord keeper speaking at the opening of parliament, said that the king "in His very first Consultations with His Privy Council, was resolved to meet His People in Parliament."[42] In 1628, according to the Venetian ambassador, it was voted in council that unless the commons granted money at once without further debate, the king would be justified in exerting his prerogative, burdening them with fresh taxes, and compelling them to pay. He had heard that soldiers had been raised to carry this out, but he doubted whether such remedies could amend the evil state of affairs.[43] At the time of the petition of right a certain one reported that the king and the council were in session from two until eight o'clock at night, in which the debate was supposed to be "whether his Ma^ty^ should presently dissolue the Parliament, and it seemeth the negative was resolued on."[44] A little later the commons engaged in making remonstrances, "insisted much on a certayne Commission passed the great Seale in February last whereby the LL. of the Councell

[40] P. C. R., xxxi. 219, 220 [December 1621]; S. P. D., James I, cxxiv, 30 December (?) 1621.

[41] Chamberlain to Carleton, London, 4 January 1621-2: *ibid.*, cxxvii.

[42] *L. J.*, iii. 493.

[43] Letter of Alvise Contarini, 9 March 1628 (N. S.): Venetian Transcripts, xv. 970, 971.

[44] Sir Francis Nethersole to the queen of Bohemia: S. P. D., Charles I, cvi. 7 June 1628.

are authorized to leuy money for the great occasions of the King, and Kingdom by Imposition or otherwise." [45]

In February 1629 Charles held a council in which twenty-eight members were present.[46]

> This day his ma^{tie} in full Councell, takeing knowledge of the debate in the house of Comons the day before, concerning the officers of his Customes, and of the Respect vsed by the Comittee to seuer the priuate interest of the said officers from that of his ma^{ts}, houlding it to concerne him highly in Justice and hono^{r} to lett the truth in such a poynt touching his Servants, to be either concealed or mistaken, did there declare, that what was formerly donne, by his ffarmo^{rs} & officers of the Customes, was donne by his owne direccon and Comaundm^{t} of his Priuie Councell himselfe for the most pte being p^{r}sent in Councell. And if he had beene at any tyme from the Councell Board, yet he was acquainted wth theire doeings, and gaue full direccon in it, and therfore would not in this seuer the Acte of his officers, from his owne Acte, neither could his officers suffer for it, wthout high dishono^{r} to his ma^{tie} This being prticulerly voted by the whole Councell, was the generall Assent of them all, and accordingly Mr Secre Coke had order to deliuer a Message the next day from his ma^{tie} to the house of Comons.

After Charles dismissed his parliament that year, the privy council, under the king, seemed almost to take the place of parliament, acts of state superseding acts of parliament. In this period of its greatest importance the king was frequently present at its sittings.

With the failure of Charles I's system came attacks not only on the crown but on the council, and finally both were

[45] Sir Francis Nethersole to the queen of Bohemia: S. P. D., Charles I, cvii, 11 June 1628.

[46] P. C. R., xxxix, 22 February 1628-9.

involved in one ruin. In the years preceding some of the parliamentarians—as in the fourteenth century—attacked the king's councillors and wished to reform his council. In 1625 Sir Nathaniel Rich propounded five heads which he desired should be referred to a committee and framed in a petition. One of them: "That it would please his Majestie to use grave counsellors in the government of these great affaires." [47] Sometimes the councillors felt the difficulty of their position between king and parliament contending. "Mr Speaker," said one of them in the house of commons in 1629, "We which haue the happines, to sitt in this house, being Counsellors of State, to his Matie, do find our selves reduced to a great strait, in regard, that what wee speak out of zealous Intent, to preserue his Maties good opinion, of the proceedings of this house, is subiect to exception & misconstruction." [48]

In the time of James I Raleigh had written of parliament: "The three estates do but advise, as the privy-council doth: which advice if the king embrace, it becomes the king's own act in the one, and the king's law in the other; for without the king's acceptation, both the public and private advices be but as empty egg-shells." [49] The end of all this was at hand when in 1640 parliament found the king at its mercy. Discontent with the great power wielded by the council and anger at the acts of Star Chamber reached their culmination. The storm that burst upon the king was directed at his councillors. It was also directed at the old order of council organization, and in the end much of that organization was swept away. Privy council was attacked, altered, and presently it disappeared for a while. Star Chamber and the subordinate councils were abolished forever.

[47] *Debates in the House of Commons in 1625* (Camden Society, new series, vi), p. 91.

[48] S. P. D., Charles I, cxxxvi, 21 February 1628-9.

[49] *The Prerogative of Parliaments, Works*, viii. 213.

The supremacy of parliament over council was at once asserted. It was said that the commons maintained as a principle: "Whatsoeuer is declared by the 2 houses binds the starchamber the L^ds^ of the Counsell and all other Courts of Justice." [50] Clarendon declares that some of the new privy councillors admitted that neither they nor anyone might give his majesty any advice, in matters depending in the two houses, that was not agreeable to the sense of the houses, which constituted the great council by whose wisdom he was to guide himself entirely. Hereupon Clarendon observes that councillors ought to give fully and freely their best advice.[51]

Moreover, as soon as the Long Parliament assembled in 1640, petitions began to come in the interests of those who like Prynne had been dealt with so severely by the court of Star Chamber, and consideration of these petitions was the occasion for attack upon the court and the existing system of government. A committee was appointed to consider the jurisdiction of Star Chamber. In 1641 a bill was introduced for reforming the privy council along with the court which was its other self. The lords desired that the court should be limited and regulated, not abolished, but they yielded to the wishes of the commons. In July 1641 was passed "An Act for [the Regulating] the Privie Councell and for taking away the Court commonly called the Star Chamber." By this statute Star Chamber was dissolved, and along with it the council of the marches of Wales, the council of the north, the court of the duchy of Lancaster, and the court of the exchequer of the county palatine of Chester. Besides all this the privy council proper was attacked. "Forasmuch as the Councell Table hath of late times assumed unto it selfe a power to intermedle in Civill causes and matters onely of a private interest betweene party and party and have

[50] "Intents of the Lower House": S.P.D., Charles I, cccclxxiv. 8.
[51] *History of the Rebellion*, i. 262.

adventured to determine of the Estates and Liberties of the Subject contrary to the Law of the Land and the Rights and Priviledges of the Subject by which great and manifold mischeifes and inconveniencies have arisen and happened and much incertainty by meanes of such proceedings hath beene conceived concerning Mens Rights and Estates" parliament took measures to ensure that this should not be in the future. "Be it likewise declared and Enacted by Authoritie of this present Parliament That neither his Majestie nor his Privie Councell have or ought to have any Jurisdiction power or authority by English Bill Petition Articles Libell or any other arbitrary way whatsoever to examine or drawe into question determine or dispose of the Lands Tenements Hereditaments Goods or Chattels of any the Subjects of this Kingdome But that the same ought to be tried and determined in the ordinary Courts of Justice and by the Ordinary course of the Law." [52] By another statute passed the same day the court of high commission also was abolished.[53]

Concerning these enactments the Venetian ambassador wrote to his government that parliament had just carried three very important decisions. It had abolished the court of Star Chamber. It had abolished the court of high commission—which he said was like the Spanish inquisition. The council of state had been deprived of all authority and the councillors strictly limited to the discharge of their offices, which now amounted to no more than suggesting to his majesty the best means of conducting foreign relations and of executing the laws of the realm. Before this they had been dealing with the most weighty affairs of the state, which together with envy had made them appear less like ministers than petty princes.[54]

[52] 16 Charles I. c. 10: *Statutes of the Realm*, v. 110, 111.

[53] 16 Charles I. c. 11.

[54] Giovanni Giustinian to the doge and senate: *Calendar S. P., Venetian, 1640-1642*, p. 178.

The council, which had been limited but not destroyed, was soon attacked further. In 1641 a bill was debated in parliament for excluding from the council persons in holy orders.[55] Presently a parliamentary committee reported through Mr. Pym about various matters: "III. Head concerning his Majesty's Council, and Ministers of State." Both houses asked the king to remove from his councils all such as in time past had been active in furthering courses contrary to religion, liberty, and good government of the kingdom, who had lately made division between the king and his people. Parliament sued for removal of evil counsellors—as often parliament had in former days of contention with the crown. It wished Charles "to take into his Council, and for Managing of the great Affairs of the Kingdom, such Officers, and Counsellors, as his People and Parliament may have just Cause to confide in." [56] Wrathful refusal answered this request. The king had expected no one so ill-advised as by slander or any way to deter those whom he trusted in his public affairs from freely giving him counsel, especially since freedom of speech was always demanded for parliament and never refused.[57] The commons were preparing a remonstrance about misgovernment of the kingdom during the fifteen years past, and to crave that the king would take neither privy councillors nor officers of state without parliament's consent.[58] The commons wished the lords to join in instructions to be sent to a committee of both houses, with the king in Scotland. Pym said that threatening dangers had come from evil councillors; that ill counsels now threatened the destruction of religion and the laws; it was desired that the king dismiss his evil advisers.[59] Of

[55] *L. J.*, iv. 257. [56] *C. J.*, ii, 185. [57] *Ibid.*, p. 208.
[58] Thomas Wiseman to [Sir Joshua Pennington]: S. P. D., Charles I, ccccclxxxv, 11 November 1641; the earl of Northumberland to [Sir Thomas Roe]: *ibid.*, [12 November 1641]. [59] *L. J.* iv. 430, 431, 432.

this period Clarendon says that Charles was under great disadvantage, having almost no members of the privy council in the commons to look after his interests.[60]

At the beginning of December the commons prayed "*That your Majesty will likewise be pleased to* remove from your Counsel *all such as* persist to favour and promote any *of those pressures and corruptions wherewith your* People have been grieved, *and that for the future, your Majesty will* vouchsafe to imploy *such persons in your great and publick Affairs, and to take such to be near you in Places of Trust,* as your Parliament may have cause to confide in." The Grand Remonstrance was now presented to the king by the commons. Yet it was hoped that "The immoderate Power of the Council-Table, and the excessive Abuse of that Power is so ordered and restrained, that we may well hope no such things as were frequently done by them, to the Prejudice of the publick Liberty, will appear in future Times." [61] Charles's answer to the part that concerned choice of councillors and ministers of state was that what the commons sought would debar him from the natural liberty that all freemen had: "*It is the undoubted Right of the Crown of* England, *to call such persons to Our secret Councels,* to publick Employment, and Our particular Service, as We shall think fit." [62]

In March 1642, on report from a committee, it was resolved by the commons that all privy councillors and all officers of state ought to be removed except those who held by inheritance; and that "his Majesty shall be humbly desired, that he will be pleased to receive only such to be Counsellors and great Officers of State, as shall be recommended unto him by the humble Advice of both Houses of Parliament." [63] In a debate in the commons a

[60] *History of the Rebellion,* i. 430.
[61] Rushworth, *Historical Collections,* iv. 438, 447.
[62] *Ibid.,* p. 453.
[63] *C. J.,* ii. 433.

little later Pym declared " That antiently, by the laws of this kingdom, the great officers of the realm were to be settled no other way, but with consent of parliament: if the great places are so, it is not strange the lesser should." [64] Leaders of parliament were more and more resolved that parliament should control the council.

In June the nineteen propositions sent by parliament to the king at York asked that councillors might be such only as parliament approved, and that all of them should take an oath agreed upon by both houses; that privy council matters should be debated in council and not by private advisers—striking thus at the cabinet system, which was already feared and disliked; " that no public Act, concerning the Affairs of the Kingdom, which are proper for Your Privy Council, may be esteemed of any Validity, as proceeding from the Royal Authority, unless it be done by the Advice and Consent of the major Part of Your Council, attested under their Hands "; desiring that matters proper for the high court of parliament, the " great and supreme council," should be transacted in parliament, not elsewhere; that other matters of state, proper for the privy council, should be settled by councillors chosen with the approbation of the houses of parliament; that the chief officers of state—most of whom had usually taken the principal part in the work of the council, namely, the lord high steward, the lord high constable, the lord chancellor or the lord keeper, the earl marshal, the lord admiral, the warden of the Cinque Ports, the chief governor of Ireland, the chancellor of the exchequer, the master of the wards, the secretaries of state, the two chief justices, and the chief baron, should always be chosen with the approbation of parliament; that the privy council should be limited to a certain number, not exceeding twenty-five nor

[64] *Parliamentary History*, ii. 1162.

less than fifteen.[65] In December 1642, in propositions to the king, parliament asked "That all Acts of the Council Table, that do concern Government, may be attested under the Hands of those who give the Advice." [66] During this time, as on other similar occasions, parliament constantly assured the king of its loyalty, opposed his wicked counsellors, and upon them put all the blame.[67]

Nomination of the great officers of state, some of whom would necessarily be leading members of the king's council, was demanded in the Uxbridge Propositions, in 1644. They should continue in office *quam diu se bene gesserint*; [68] as was asked also in the Propositions sent to Newcastle two years later.[69] Had these proposals been accepted they would have made the privy council, and, indeed, to a great extent the executive authority, dependent upon parliament, thus anticipating largely what was slowly worked out in the eighteenth and nineteenth centuries. To Charles I they must very properly have seemed much as in former times had appeared to John or to Henry III or to Edward II those earlier regulations designed to limit the power and prerogative of the crown in the interests of powerful classes who opposed it. At one time, however, in 1647, so low were his fortunes reduced, the king offered to yield: "*And for the further securing all Fears, his Majesty will consent, that an Act of Parliament be passed for the disposing of the great Offices of State, and naming of Privy-Counsellors for the whole Term of his Reign, by the Two Houses of Parliament, their Patents and Commissions to be taken from his Majesty, and after to return to the Crown.*" [70]

All attempts at agreement between king and opponents came to an end with the second civil war, which brought

[65] *C. J.*, ii. 599, 600; *L. J.*, v. 98.
[66] *L. J.*, v. 504.
[67] For example, *C. J.*, ii. 776.
[68] *L. J.*, vii. 57.
[69] Rushworth, vi. 316.
[70] *Ibid.*, vii. 882.

his defeat, condemnation, and death. During these latter mournful years a faithful remnant of the privy council had attended the king, far from Whitehall and the other places where in better days it had often assembled, until with the collapse of all royalist hopes for a while substantially it came to an end. Some of the most faithful of the councillors fled to the continent, and presently assembled as the shadow of a king's council about Charles Stuart in exile. After some years had gone by, it was seen that the privy council had been in abeyance, and not, like Star Chamber and high commission, completely destroyed.

CHAPTER IX

THE PARLIAMENTARY EXECUTIVE DURING THE CIVIL WARS

When Charles I left London in 1642 he presently gathered about him some of the members of his council, and meetings continued to be held during the three next years. With the overthrow of the king in 1645 the privy council of England actually, though not legally, ceased to exist for the time; and while after 1649 the exiled Stuart heir sometimes held meetings of a few of his faithful followers who considered him king and whom he called his privy council, there was no more of monarchy or king's council in England until he returned as Charles II and established his privy council in May 1660. Of king and privy council during the years when civil war was destroying royal power there is little to be said that has any constitutional import or importance.

Of the governmental forms that superseded royal rule in this period of confusion and in the time of the interregnum that followed, it might also be thought there was not much for the attention of students tracing the development of the executive, of the privy council, of the cabinet. The institutions set up now were revolutionary; and one followed the other in rapid succession. For the purpose of this study, however, the period has extraordinary interest. Those who have examined these years especially in respect of what the revolutionaries attempted to do and talked about doing, have seen abrupt break, a revolutionary era, large changes, then reaction to much of what had existed before. At the time, indeed, it must have appeared so to the multitude of simple folk who saw the king put to

death, monarchy abolished, house of lords destroyed, ecclesiastical organization altered, in a state called a republic and put under parliament's power. If, however, one studies the records of what was actually done to carry on the government of England during these years, he discovers that in many respects the break was not so abrupt and the government not so completely altered after all.

Previously there had been an organization in which government was mostly vested in the king. Under him it was largely carried on by his council, the members acting together as an advisory and administrative body, or working in groups or committees, or presiding singly over their peculiar administrative work. In most of the normal routine of this government parliament had scarcely any part directly, and relatively, from this point of view, parliament was unimportant. After 1642 parliament tried to carry on the government in those parts of England which it controlled. After 1645 parliament strove also to be, in effect, what king and council had been in the years preceding the trouble, thus adding executive to legislative functions—somewhat as government in the United States was attempted before the American constitution was adopted, something like what the convention attempted in France during the French Revolution. The system of carrying on executive and administrative functions by a large body essentially consultative and legislative could not be effective, and smaller councils or committees were established. Later on, executive functions were given very largely to a single executive assisted by a small council. The names were different—though in the end men were calling the protector's council *privy council*, but functions and procedure were so nearly the same as they had been under Charles I and James I that there is seen to have been no large break after the first years of civil

war and confusion were over. Perhaps this development has not hitherto attracted all the attention it deserves.

In July 1642, when Charles and his supporters were evidently assembling their forces, the commons asked the lords to join in establishing a parliamentary committee of safety. 4 July, a joint committee was appointed "to take into their Consideration whatsoever may concern the Safety of the Kingdom, the Defence of the Parliament, and the Preservation of the Peace of the Kingdom, and opposing any Force that may be raised against the Parliament." [1] It was composed of fifteen members—five lords and ten commoners, its members being some of the ablest and most conspicuous leaders in parliament. Generally speaking, this committee was a weak executive body, completely dependent on parliament and subject to parliament's orders, its principal function to bring matters to parliament's attention.[2]

As the inconclusive struggle between parliament and king dragged on the leaders of the war party, especially those who favored a vigorous contest, desired an executive body with greater energy and power. In January 1644, when the arrival of four Scots commissioners was shortly expected, a motion was made in the commons for appointment of a small committee to preserve unity and prevent discontent between the two peoples and report to parliament conclusions reached. Instead of this, Vane and St. John, at the head of the war party, now proposed the appointment of a permanent committee of seven lords and fourteen commoners to join with the Scots commissioners, not merely to report their opinions to the house but "for the better Managing the Affairs of both Nations in the common Cause." Thus the existing committee of safety would be superseded by another body or committee

[1] *C. J.*, ii. 651; *L. J.*, v. 178.
[2] Gardiner, *History of the Great Civil War*, i. 358, 360.

less entirely dependent on parliament. In February the proposed ordinance was moved in the lords, and readily accepted. They proposed that the new committee should "order and direct whatsoever doth or may concern the managing of the War . . . and whatsoever may concern the Peace of his Majesty's Dominions." [3] In the commons more opposition was encountered, so that a new ordinance was introduced, and objections met by changes in detail. The committee was "to advise, consult, order, and direct concerning the carrying on and managing of the War." [4] It was to have control of foreign relations. It would be entirely subordinate to parliament, however, in respect of the negotiations with the Scots, and the making of any treaty of peace with the king.[5] When the ordinance came again before the lords much fault was found, particularly with such control of military matters. 16 February 1644, the lords yielded, and the committee of both kingdoms was established for a period of three months.[6] A little later they objected to imposition upon the members of this committee of an oath of secrecy, declaring that parliament had right to be informed about all state affairs. To this the commons hearkened for the time, so that at first the new executive body did not have such secrecy pertaining to what it did as the privy council had had.[7]

The committee of both kingdoms, called frequently the Derby House Committee, from meeting usually at Derby House in Cannon Row, Westminster,[8] consisted of twenty-one members representing England: [9]

[3] *C. J.*, iii. 384, 504; *L. J.*, vi. 405.
[4] *L. J.*, vi. 430.
[5] *C. J.*, iii. 392.
[6] *L. J.*, vi. 418-30.
[7] *L. J.*, vi. 440; Gardiner, *History of the Great Civil War*, i. 357-60; W. Notestein, "The Establishment of the Committee of Both Kingdoms," *American Historical Review*, xvii. 477-95 (April 1912).
[8] *Calendar S. P. Dom., Charles I, 1644*, preface, p. ii.
[9] State Papers Domestic, Interregnum, E 1, about February 1643-4; *C. J.*, iii. 504; *L. J.*, vi. 564, 565.

The earl of Northumberland	
earl of Essex	lord general
earl of Warwick	lord admiral
earl of Manchester	
Lord Say and Seale	
Lord Wharton	
Lord Robarts	
Mr. Pierpoint	
Sir Henry Vane, senior	
Sir Philip Stapleton	
Sir William Waller	
Sir Gilbert Gerrard	
Sir William Armyne	
Sir Arthur Haselrig	
Sir Henry Vane, junior	
Mr. Crew	
Mr. Wollop	
Mr. Solicitor	Oliver St. John
Mr. Cromwell	
Mr. Browne	
Mr. Recorder	John Glyn

There were, in addition, four members representing the Scots.

Certain regulations were at once proposed and probably adopted. The place of meeting was to be Derby House. Three clerks were to attend the committee daily. There were to be a housekeeper and four messengers. The "Secretary for forraigne affaires" was to attend and also "the other Secretary." From among the members a chairman should be chosen, to continue in his position a fortnight at a time. The chairman was to provide some minister to pray daily at the meeting of the committee and at rising. The chairman with two other members might open any letters addressed to the committee. He was to summon the committee to meet on extraordinary

occasions, as he thought fit. Record was to be kept in books by the clerks.[10] An oath of secrecy was also proposed. In respect of secrecy a few days later it was resolved by the committee that any of the members might reveal whatsoever they were not forbidden to reveal by the major part of the committee. Any member might communicate verbally to members of the committee—doubtless those not present at the meeting in question—intelligence, debates, resolutions, not mentioning by whom particular words were spoken. A member might reveal any matter to the house of parliament of which he was a member, after he had imparted it to the major part of the committee. If one of the Scots commissioners thought himself bound in conscience to reveal something forbidden by the majority of the committee, it would be lawful for him to give it to those by whom he was commissioned after he had spoken of it to the major part of the committee.[11] Further regulations and orders were established. Members present at the committee were not to depart until the committee rose, unless leave was obtained.[12] Thursdays were reserved especially for consideration of foreign affairs.[13] Various sub-committees were appointed, equivalent to the former committees of the privy council.[14]

The committee met in various places, usually at Derby House, but also in York House and in Worcester House. It met frequently, sometimes day after day, usually twice or more a week. Attendance varied from the first—eight or ten or twelve or thirteen or more. Some of the members

[10] "Considerations for the Regulateing the Comttee of both Kingdomes": S. P. D., Interregnum, E 7, fo. 1, February 1643-4.

[11] *Ibid.*, 19 February 1643-4.

[12] *Ibid.*, 22 February 1643-4.

[13] *Ibid.*, 5 March 1643-4.

[14] *Ibid.*, 6 March 1643-4.

were often away on business, while the Scots commissioners were frequently with their army.

At a meeting of fifteen at Warwick House, 20 February 1644, a letter of advice was ordered written to the "Comttees of both Kingdoms" resident with the Scots army, that certain supplies had been sent as part of the £ 50,000 intended. Two of the parliamentary leaders were asked next day to bring in a written report about what supplies of men, arms, ammunition, and money they wished, also information about the number and state of their forces and what they knew about certain other forces. The lord admiral was to report to the committee concerning the navy, and what was needed for sending out the fleet. A matter referred to the committee by the house of commons was postponed for consideration till the morrow, as were three letters left by the Lord General Essex. Three members were to go to the excise men and receive their positive answer about a certain £ 20,000. Sir Henry Vane to report to the commons at their next sitting that the earl of Lothian should be exchanged for Colonel Goring. Two messengers were appointed for the committee. Several orders were read and recommitted. The raising of necessary money to be considered next day. A meeting of the committee was appointed for the next day, at Arundel House, three o'clock.[15] Two days later, at a meeting at Worcester House, orders were considered and agreed upon, and numerous military matters were dealt with.[16]

The committee of both kingdoms busied itself especially with direction of military and naval affairs. At the beginning of March it resolved that Mr. Recorder move the commons from the committee that the fleet for the Irish

[15] *Ibid.*, 20 February 1643-4.

[16] *Ibid.*, 22 February 1643-4.

coasts be sent quickly, and that without delay the money necessary for it be despatched: "4000li will doe the Businesse."[17] A fortnight later he was to report to the house of commons as the desire of the committee that they order their committee of the revenue to pay £3,000 due to the garrison at Aylesbury, and recommend it to be done at once.[18] A little later numerous directions were being sent to commanders in the field, as to Lord Fairfax, directing him to join Sir Thomas Fairfax and march for the reduction of Yorkshire.[19] Next day the committee of both kingdoms ordered that the following answer be returned to the committee of the house of commons for the navy:[20]

> This Comttee is of opinion that the safety of the Kingdome doth require there should be set forth a fleet of as great strength this yeare as the last or greater if it might bee both to oppose that strength the King now hath of shipping and to hinder the coming over of the Irish. And of Arms and Ammunition, and in diverse other respects But because what meanes there may be found to set forth and Maintayne such a fleet is best knowne to the House The Comttee thinke it fit for them to leave the Consideration of the Number of the ships and what burthen they shall be of wholly unto their disposing.

In April a letter was sent to Sir William Waller and Sir William Balfour, that the committee wished them not to retreat, giving reasons therefor based on information obtained.[21]

The committee of both kingdoms, whatever its activities, was a committee of parliament, and its relations with the two houses were constant and numerous—so much

[17] S. P. D., Interregnum, E 7, 1 March 1643-4.
[18] *Ibid.*, 14 March 1643-4.
[19] *Ibid.*, E 18, 20 March 1643-4.
[20] *Ibid.*, E 7, 21 March 1643-4.
[21] *Ibid.*, E 18, 13 April 1644.

more so than those of the privy council previous that Gardiner and other have justly seen in it a forerunner of the cabinet, which in the later part of its history, though not in the earlier part, was essentially a committee of parliament. The committee of both kingdoms constantly made reports and recommendations to parliament, especially to the house of commons. Ordered, runs the record in February 1644, "That Sr Henry Vane jur doe report to the House of Comons to morrow as the opinion of this Com^{ttee} That the Com^{ttee} of the Revenue do furnish two hundred pounds for the subsistance of Mr Strickland [ambassador to the Netherlands], And that the Money be payd to Mr Weckerlin to send to Mr Strickland." [22] In March it was decided that a paper recently given in by the Scots commissioners be communicated to the two houses by the earl of Northumberland and Sir Henry Vane respectively, if it should please the houses to call for the information.[23]

Various matters were handled. Ordered "That the businesse of the Kings letter be first taken into Consideration to Morrow." [24] The same day it was settled that Sir Henry Vane should go to Lord Claneboy and tell him that when the committee had considered his business they would send for him.[25] There was much dealing with finance and procuring and assigning of money. At one meeting the committee reported that it considered £ 300 a week necessary for intelligence—secret service; that they desired £ 200 of it from the committee of the revenue; that the recorder speak with this committee to see whether it could furnish the entire sum which was sought; that the committee of both kingdoms believed the sum to be borrowed, in accordance with a recent order of the house of

[22] *Ibid.*, E 7, 23 February 1643-4.
[23] *Ibid.*, 9 March 1643-4.
[24] *Ibid.*, 6 March 1643-4.
[25] *Ibid.*

commons, should be £300,000; that certain ones be appointed to confer and then report the names of those whose credit might be used to procure such a loan.[26] A little later, at a meeting of twelve, it was ordered that a sub-committee be appointed to treat with some of the richest merchants and find out whether they would on their security borrow for the government £300,000 in Holland, taking counter-security for it, and to learn what security they would accept.[27]

Originally the committee of both kingdoms was established only for three months. In May that period came to an end. Meanwhile had developed between the lords and the commons a struggle increasingly acute, and this difference was manifest when the time came for a renewal, as the commons desired, of the committee's authority and powers. "I heare from London," Sir Edward Nicholas wrote from Oxford, "(the ordin̄ce for the great Counc[ll] of State there expiring on friday last) there is much division amongst them about the Choice of new Councell[ors]." [28] The lords had wished changes and increase in the size of the committee, perhaps to give the peace party larger representation.[29] The commons had rejected all amendments to the bill which they proposed; in the midst of dispute and delay the term of the committee had expired; and the government of the parts of England which parliament controlled resided solely in parliament again.

The crisis thus produced lasted only a few days, however. The commission of the committee of both kingdoms appointed in February expired 16 May. Its powers were based on an ordinance sent up from the commons and accepted by the lords. Before its passage the lords had

[26] S.P.D., Interregnum, E 7, 9 March 1643-4.
[27] *Ibid.*, 23 March 1643-4.
[28] Letter to the earl of Forth: S.P.D., Charles I, di, 12 May 1644.
[29] Gardiner, *History of the Great Civil War*, i. 403.

themselves sent an ordinance down to the commons; and that ordinance had never been rejected. 21 May, after the commons had finally refused to concur in the amendments now proposed by the lords, it was ordered that consideration be given next day to the ordinance for a committee of intelligence between the two kingdoms sent down from the lords 1 February last. Next day the ordinance that had been thus proposed was easily passed: "And this House concurred with the Lords in this Ordinance; and passed it upon Question." [30] It was sent up with the message: "To let their Lordships know, that the House of Commons do concur with this House in an Ordinance sent down to them the First of *February*, 1643, intituled 'An Ordinance for the appointing a Committee of both Houses, to join with the Committees and Commissioners of *Scotland.*'" [31]

The members were the same as before for England, but four new Scots members were named. The quorum was to be seven, but of the English members alone as few as three, of whom there must be one from each house of parliament.[32] The lords had passed their ordinance so hastily and so rashly that this new committee possessed greater powers than its predecessor had. It was not limited in duration of tenure. Originally those who promoted the ordinance and secured its passage in the lords had designed the committee to be less dependent on parliament. It was to direct whatever concerned management of the war, maintaining communication among the forces of the three kingdoms, and whatever had to do with the peace of his majesty's dominions.[33]

The committee assembling—in effect no more than some of the English members meeting again to continue their work—it was ordered that previous regulations should

[30] *C. J.*, iii. 503.
[31] *L. J.*, vi. 564.
[32] *C. J.*, iii. 504.
[33] *Ibid.*

be kept in force, and that the same officers, messengers, and servants be continued with salaries as before.[34] The ordinance had provided for an oath of secrecy.[35] After some delay this was reluctantly considered in the committee.[36]

The meetings of the new committee were usually at Derby House, though from time to time they were in other places. Often they were fairly frequent. Apparently, as a rule the time of the next meeting was arranged before a gathering broke up.[37] During the first half of June 1644 there were fifteen meetings, five of them in the afternoon. At these gatherings attendance varied from five to fourteen; nine, ten, or eleven being the most usual number.[38] As had been the case with the privy council, some of the members seldom attended, the usual presence, apparently, being about half the membership or less. At an afternoon meeting in July 1644 at which eight members were present, it was ordered: "That all the Com^{ttee} be present to Morrow morning at eight of the Clocke and that the Orders of the Com^{ttee} bee then read." To the meeting next morning came seven of those present the day preceding, and only one other.[39] "Our affaires here," wrote one of the members in 1645, "are as loose as euer, both the houses and the Committie of both Kingdomes haue for this month past beene very thinn, but will now beginn to fill againe."[40] The Scots commissioners seem generally not to have been present, but with the Scottish army. When business was transacted with them it was done by correspondence for the most part. In May 1644 it was or-

[34] S. P. D., Interregnum, E 7, 24 May 1644. [35] *C. J.*, iii. 504

[36] S. P. D., Interregnum, E 7, 19, 29 July 1644; compare *ibid.*, E 8, 25 February 1644-5.

[37] For example, *ibid.*, E 1, 1 July 1644.

[38] *Ibid.*, E 1. [39] *Ibid.*, 1 July 1644.

[40] Algernon earl of Northumberland to ——: S. P. D., Charles I, dx, 2 September 1645.

dered: "That a lre be written to the Comttee of both Kingdomes residing in the Scottish Army to acquaint them that this Comttee is now sitting and to desire they may hold correspondence wth this Comttee." [41] Often its work was done with much secrecy, as that of the privy council formerly had been. In 1645 a certain one who had a conference with its secretary referred to it as the "Close Committe." [42]

As the committee of both kingdoms was virtually a committee of the two houses of parliament, its relations with parliament were constant, numerous, and varied. It made frequent reports and communications to the two houses, but especially to the commons; it prepared business for parliament's consideration; it made frequent recommendations. From parliament it received many communications and orders to consider or to deal with particular things.

To parliament information was constantly sent. Ordered "That Sr Henry Vane's letter from Yorke of the 11o of June be reported to the House by Mr Recorder." [43] In October 1644 the committee ordered that a transcript of the letters of the lord general be reported to both houses, part being left out, also a letter of Sir William Waller, omitting a certain part likewise.[44] In 1645 it was ordered "That the Letter from Sr Thomas ffairfax from Blandford of the 3. of July be reported to both Houses and the papers enclosed." [45]

Drafts of ordinances, recommendations, requests were constantly sent to parliament or to the house of commons. "That the Ordinance concerning Irish affaires be reported

[41] S. P. D., Interregnum, E 7, 25 May 1644.

[42] Sir Edward Nicholas to the king: S. P. D., Charles I, dx, 31 August 1645.

[43] S. P. D., Interregnum, E 7, 17 June 1644.

[44] *Ibid.*, 20 October 1644.

[45] *Ibid.*, E 8, 5 July 1645.

to the House," runs the record in September 1644.[46] In February 1645 the committee ordered that an ordinance be drawn up, to be passed by parliament, commanding all soldiers on pain of death to repair to their colors. At the same meeting the record declares "That the draught of the Ordinance now read for sending the Souldiers to their Colours be reported to both Houses."[47] In the preceding December, when twelve were present, the committee ordered a report to the commons that there was some special service for the west not proper to be communicated yet, for which £2,000 was wanted, desiring the house immediately to provide this sum.[48] At almost every meeting matters were ordered to be reported to parliament with recommendations of what the committee wished done. There were frequent requests for necessary money or recommendations concerning appropriation.

Relations of the committee of both kingdoms with parliament were not merely with the two houses but also with various parliamentary committees within the houses, especially in the house of commons. All the powers of government had been arrogated to parliament during its struggle with the king. Executive and administrative power thus obtained it had delegated partly to a committee of its two houses associated with certain commissioners of Scotland, but care of particular kinds of business had also been more specifically delegated to certain other committees, of the houses of the parliament, which undertook the particular administration of what would later on be called the departments. There were, for example, the committee of the revenue, the committee of the navy, the committee of the army. With these groups the committee of both kingdoms had frequent meetings, and it maintained with them constant relations.

[46] S. P. D., Interregnum, E 7, 30 September 1644.
[47] *Ibid.*, E 8, 20 February 1644-5.
[48] *Ibid.*, 4 December 1644.

In May 1645, it was ordered that word be sent to the officers of the ordnance about furnishing certain cannon. The committee of both kingdoms desired that the "Comittee of the Army" with the treasurer should be present. They asked also that the "Comittee of the Admiralty" send a ship to the Isle of Wight to take the Duchess of Chevreuse to Dunkirk.[49] A few days later it was ordered "That Letters be written to the Committee of the Army to prepare the prouisions under written to be ready wth all expedition for the service against Oxford." [50] In December the commons ordered that on the next Thursday the committee of both kingdoms should recount to the house the propositions from Sir Thomas Fairfax concerning the army, which had been referred to their consideration; further, that the committee of the west and the committee of the army should that day confer with the committee of both kingdoms concerning the said propositions; that on the whole matter the committee of both kingdoms should report to the house.[51] In September of the next year. "It is this day Ordered by the Comons assembled in Parlt That the Comittee of both Kingdomes doe sit this afternoone, and that the Comittee of Lords & Comons for the Admiralty and Cinque ports doe meet wth them to receiue such Informacons as Mr Speaker shall offer unto them and haue power to doe therein as they shall see cause." [52]

Parliament relied upon the committee, sent communications through the committee, delivered to its care or consideration much business for discussion or decision, referred to it petitions, and asked for its counsel.

Important communications were transmitted from the houses through members of the committee of both king-

[49] *Ibid.*, 13 May 1645.
[50] *Ibid.*, 23 May 1645.
[51] *Ibid.*, E 14, 8 December 1645.
[52] *Ibid.*, 18 September 1646.

doms; especially were the representatives of Scotland reached through the English members of the committee. In September 1645 the house of commons ordered that the members of both houses who were of the committee of both kingdoms should that afternoon communicate to the Scots commissioners the resolutions of both houses concerning the Scots army, desire their speedy reply, then report to the house; also tell the Scots commissioners that the papers they had lately delivered were being considered by the house and that answer would soon be returned.[53] A year later the lords and the commons in parliament assembled resolved that the vote concerning disposal of the king's person should be communicated to the Scots commissioners by the members of both houses who were of the committee of both kingdoms.[54] Papers and communications from parliament to the Scots commissioners were regularly sent in this manner.[55]

Various orders and directions went from parliament to the committee. Such directions are scattered through the journals of parliament and embodied in the books of the committee itself. In January 1645 the committee resolved to consider the desire of both houses about the marching of the Scots army southward, and the entire committee was desired to be present when this was taken up.[56] A little later, the committee, asked by parliament to treat with the Swedish ambassador, reported that it had received from him papers, on which had been prepared a letter to the queen of Sweden to be sent from both houses and the commissioners of Scotland.[57] In August 1645 parliament ordered that one lord and two commons of the committee of both kingdoms joining with the Scots commissioners should for one month have power to ap-

[53] S. P. D., Interregnum, E 14, 25 September 1645.
[54] *Ibid.*, 22 September 1646.
[55] *Ibid.*, 18 December 1647.
[56] *Ibid.*, E 8, 18 January 1644-5.
[57] *Ibid.*, 19 March 1644-5.

point convoys, give and receive intelligence, and make reports to the houses.[58] About this time parliament ordered the committee to grant a commission to a certain officer.[59] Letters to parliament were referred to the committee for consideration and report.[60] In September 1645 the humble petition of George Lord Berkeley that Berkeley Castle be not demolished if taken was referred by the house of lords to the committee with recommendation that the castle should not be destroyed, Lord Berkeley having been obedient to parliament in all things. Hereupon the committee ordered that the castle be spared.[61] In October the commons bade the committee send the king of Denmark a letter formerly ordered, if that had not already been done.[62] Such recommendations and orders came at first from one house or the other, but always more from the commons than the lords. After a while they came from the commons almost entirely, so that the committee of both kingdoms came to be what the cabinet in the nineteenth century was, essentially a committee of the commons.

The committee of both kingdoms continued to occupy itself especially with military affairs, much of business of this kind being referred to it by parliament. Ordered "That the house be moved to prouide moneys for my Lo: Generalls forces & Sr William Wallers."[63] In November 1644 the committee declared: "That in regard of the many businesses of the Warre that are to be managed by this Comittee, they are not able to spare tyme for the examinac̄on of the Leicestershire petition for that there are many witnesses to be sent for to be examined therein

[58] *Ibid.*, E 14, 6 August 1645.
[59] *Ibid.*, 12 August 1645.
[60] *Ibid.*, 26 August 1645.
[61] *Ibid.*, 23 September 1645; E 5, 23 September 1645.
[62] *Ibid.*, E 14, 14 October 1645.
[63] *Ibid.*, E 7, 4 November 1644.

—To desire the House to resume the hearing of the same petition or to appoint a select Comittee for it." [64] In February 1645 report was ordered made to the commons, that considering the present state of affairs, the committee thought the house should not command Sir William Waller to march further westward.[65] A month later the committee urged Lord Fairfax to detach a force to Sir William Brereton's assistance.[66] In April a letter was ordered to Sir William Waller and to Lieutenant General Cromwell "to let them know this Comittee doth hold it very convenient that they stay in those parts." The committee had received only one letter from Sir William concerning their proceedings; it desired frequent accounts so as to know what assistance to send them.[67] To Sir Thomas Fairfax, "that he amuse not himselfe in takeing of Houses but hasten for a coniunction wth Vermuyden & Cromwells forces." [68] In August the commons ordered the committee to consider how a force of a thousand cavalry might best be employed for the commonwealth's service.[69] A fortnight later the house referred it to the committee of both kingdoms to consider, that afternoon, how some speedy and effectual means might be taken to prevent mischief being done by the forces of Newark, news of the increase of the forces there having arrived. The committee took up the matter at once, and sent out various directions.[70]

In August 1645 the house of commons ordered a letter signed by the speaker to be sent to Colonel Poynts concerning his marching southward. The order was passed with a blank for the place to which he should be bidden to come. "And it is referred to the Comittee of both Kingdomes to

[64] S. P. D., Interregnum, E 7, 14 November 1644.
[65] *Ibid.*, E 8, 20 February 1644-5.
[66] *Ibid.*, E 20, 17 March 1644-5.
[67] *Ibid.*, E 8, 7 April 1645.
[68] *Ibid.*, 5 June 1645.
[69] *Ibid.*, E 14, 2 August 1645.
[70] *Ibid.*, E 4, E 14, E 21, 13 August 1645.

fill up the Blancke." [71] Civilians directing movements in the field must then, as on so many other occasions, have given perplexity and despair to commanders. One day the commons ordered the earl of Warwick to send eight hundred horse for the relief of Lincolnshire; another commander of cavalry to go there also; the horse belonging to Northampton, Coventry, and Warwick at once to unite and march west. "And lastly it is Ordered that the Comittee of both Kingdomes doe meet and put these severall Orders in speedy execution." [72] In November the house learning that the king intended a plundering expedition in the adjacent counties, and that the City Brigade of horse and dragoons was then at St. Albans, ordered them to march immediately to Uxbridge, there to await the orders of the committee of both kingdoms; they were not to come to the city without command from the committee unless the movements of the enemy offered opportunity to engage. The commons promised to care for their pay as soon as might be.[73]

"Resolved &c," says an order of 1645, "That a Lre be writt to the Comittee & Comanders of the Warwickshire and Coventry Horse, to inioyne them to take Care That the Orders of the Committee of both Kingdomes by obeyed, & that those Horse that were formerly appointed to ioyne wth Colonell Generall Poynts doe forthwith march up to him for the present Service." This order is signed by the clerk of the commons and appears in the parliamentary order book, but in the margin is written: "Warwicke shire & Coventry Horse to obey the Orders of this Comittee." [74] Often, it would seem, the house of commons attempted executive work, though leaving it formally to the committee, while on the other hand the committee constantly

[71] *Ibid.*, E 14, 30 August 1645.
[72] *Ibid.*, 1 September 1645.
[73] *Ibid.*, 21 November 1645.
[74] *Ibid.*, 9 September 1645.

used the authority of parliament to strengthen its own commands. That is to say, there was much tendency for the two bodies to be merged one in the other.

Meanwhile numerous letters and communications, often addressed to the right honorable the committee of both kingdoms at Derby House, came in from officers and generals in the field, reporting in detail movements and actions of troops.[75] "I haue received yor L$\bar{r}$e and shall as farre as in me lyes obey yor Comands," wrote the earl of Manchester, sending a report.[76]

The committee of both kingdoms was busied with many other things. It corresponded with the numerous local committees, as in Kent and elsewhere, which sprang up at this time to carry on the struggle with the king. In July 1644 the committee ordered a letter sent to the committee of Cambridge and to the several committees in the earl of Manchester's association to hasten collections for his army.[77] On another occasion a letter to the committee of Suffolk requested clothes for soldiers who had returned.[78] A great number of communications concerning a variety of matters went out.[79] In 1645 a letter was ordered drawn up to the states of Holland thanking them for the relief sent to Ireland, and asking that this relief be continued. The draft was to be viewed by the sub-committee for Ireland, and then reported to the house of commons.[80] Such sub-committees were frequently appointed for consideration of particular business. They seem generally to have been temporary, not standing, committees.

The renewed committee of both kingdoms lasted from 22 May 1644 until widening differences with the Scots brought another change. At the beginning of 1648, when

[75] S. P. D., Interregnum, E 16, E 17.
[76] *Ibid.*, E 17, 23 November 1644.
[77] *Ibid.*, E 7, 8 July 1644.
[78] *Ibid.*, E 20, 5 April 1645.
[79] *Ibid.*, E 22, E 23, E 24, E 25.
[80] *Ibid.*, E 8, 18 January 1644-5.

the independents in parliament were preparing more drastic measures with respect to the king, they resolved to set themselves free from the formal though usually ineffective connection with Scotland that existed in the committee representing both kingdoms and containing, in theory at least, members from Scotland as well as from England. 3 January 1647-8 it was resolved in the commons that the powers relating to England and to Ireland, formerly granted by both houses to the committee of both kingdoms, should now be vested only in the members of both houses of parliament who were of that committee—thus getting rid of the Scots.[81] Three Independents—Nathaniel Fiennes, Sir John Evelyn, the Earl of Kent—were added to the membership in place of three Presbyterians—Sir Philip Stapleton, the recorder, and the earl of Essex—disqualified or dead.[82] A few days later the commons proposed that the committee at Derby House should employ its own secretaries, to whom it might pay salaries up to £1000 per annum, chargeable upon the revenue; that it might communicate to its secretaries letters and papers; that the clerk of the house should deliver to these secretaries copies of the orders and records of the house.[83] The lords wished that more names be added and that the power of the committee be increased, but their wishes were only partly concurred in. The committee was established 24 January 1647-8.[84]

The new committee was styled the committee of both houses. The change of name which had been effected is significant in the history of the political changes of this time—the heightened struggle against the king, increased divergence between Scotland and England, displacement of Presbyterians by Independents, but from the point of view of the study of institutions no great alteration was

[81] *C. J.*, v. 416.
[82] S. P. D., Interregnum, E 15, 15 January 1647-8.
[83] *C. J.*, v. 427.
[84] *L. J.*, ix. 670, 675; *C. J.*, v. 440, 441.

made. When the body was the committee of both kingdoms it embraced four Scots commissioners, but they were usually not present at meetings; they took small part in business; and had no great influence in deciding what was done. When at the beginning of 1648 the council became a committee for England only and was styled the committee of both houses, it was essentially what it had been before. No particular change took place in business and methods In 1645 a report had been made "At the Committee of Lords & Commons appointed to treat with the Scotts Commissionrs." The original of this report was endorsed: " The report of the Comittee of lords and Comons for both houses wch are of the Comittee of both Kingdomes." [85]

The increasing radicalism and confusion of the times, the constant tendency for power and real government to gravitate to the army and the leaders of the army, had caused the power of the committee of both kingdoms to wane. The power of the committee of both houses was less at the start than that of its predecessor, because the authority of parliament was being diminished; just as the power of the committee of both kingdoms itself, for the same reasons, was much less after the two first years than it had been. During 1644 and 1645 the committee of both kingdoms had been the principal executive power in all parts of England where the king's control had been broken; but thereafter records are wanting for the most part, and it was apparently much less important. The records of the committee of both houses show the same thing: it spoke with less and less of authority, and its attention was given to a diminishing number of things. With these qualifications, the successive committees might be studied together, as practically the same body, so far as the development of English institutions is concerned.

[85] S. P. D., Interregnum, E 8, 26 June 1645; S. P. D., Charles I, dvii. 143.

The committee of both houses, established in January 1648, was soon made larger than its predecessor ever had been. The original nucleus was eighteen of the twenty-one members for England of the committee of both kingdoms, to whom three new independent members—the earl of Kent, Sir John Evelyn, and Nathaniel Fiennes—were added at the start. In May the lords advised the commons of their opinion that the committee was too small for dispatch of affairs; that hence they had added six members from their house, and desired the commons to add a proportionable number of their own.[86] A few days later the commons accepted the new names, and added twelve more themselves.[87] So, by the end of the month the membership was increased to thirty-nine, through the eighteen new members thus added: [88]

The earl of Pembroke and Montgomery
earl of Salisbury
earl of Denbigh
earl of Mulgrave
Dudley, Lord North
Lord Howard of Essex
General Skippon
Mr. Swynsen
Mr. Prideaux
Colonel Rosseter
Sir Harbottle Grimston
Sir John Treaver
Sir John Danvers
Lord Lisle
Lord Cranborne
Sir William Massam
Sir Richard Onslow
Mr. Rouse

[86] *L. J.*, x. 282; *C. J.*, v. 573.
[87] *C. J.*, v. 578, 579.
[88] S. P. D., Interregnum, E 15, 1 June 1648; *C. J.*, v. 578, 579.

In January 1649 the commons ordered the addition of seventeen other members:[89]

Sir Humphrey Edwards
Sir Gregory Norton
Colonel Walton
Mr. Lisle
Sir Henry Mildmay
Colonel Purefoy
Lord Gray
Mr. Love
Colonel Martyn
Lord Mounson
Colonel Ludlow
Mr. Blagrave
Mr. Millington
Mr. Oldesworte
General Ireton
Colonel Harrison
Colonel Fry

But these additions have little importance for a study of the work of this body, since a month later the committee was entirely dissolved.

Attendance varied much. Three members met in 1648 to send a letter to the lord general informing him of an insurrection at Bury.[90] Eighteen were present to issue an order about procedure in June 1648.[91] Other gatherings contained six or seven or more. As before, most of the meetings were held at Derby House which frequently gave its name to the committee.[92] In March 1648 the commons ordered their members in the committee at Derby House to sit every day diligently, and they desired

[89] S. P. D., Interregnum, E 15, 6 January 1648-9.
[90] *Ibid.*, E 9, 13 May 1648. [91] *Ibid.*, 30 June 1648.
[92] "The Committee of Lords & Comons at Derby House" is the title of the book of orders, January-July 1648: S. P. D., Interregnum, E 9.

the lords to enjoin their members so to sit also. They issued like order and expressed like desire in May. The lords replied that they too wished their members to give constant attendance.[93] Like the privy council once the committee strove to do its work in secrecy and in seclusion. In 1648 it was ordered " That when this Cōmittee is sitting the lower dore is to be locked up. & noe person suffered to come in that way and the key brought up into the Cōmittee boord." [94]

This committee of both houses, like its predecessor, was a committee of parliament, essentially of the commons, and to it parliament delegated authority along with the tasks expected to be done. In January 1648, the lords and the commons ordered that the committee at Derby House should have power to suppress all insurrections and tumults in England and in Wales, for which it might give orders to the military forces.[95] Often, however, it seemed to have little authority and power. In July the commons ordered that the committee proceed to apprehend and seize all persons who were suspected, whether lords or others, and secure them until further command.[96] In 1648 it resolved to recommend earnestly to the committee of the revenue the petition of the messengers in its service, and to recommend also that the committee of the revenue provide it with some present money for carrying on its own work.[97] The committee of both kingdoms had been compelled formerly to make urgent requests for money, but generally in less humble manner. It would seem also that the directions given by the committee of both houses were spoken with less authority than those which its predecessor had sent forth; and while in its later months

[93] *C. J.*, v. 506, 571; *L. J.*, x. 282.
[94] S. P. D., Interregnum, E 9, 30 June 1648.
[95] *Ibid.*, E 15, 24 January 1647-8.
[96] *C. J.*, v. 624.
[97] S. P. D., Interregnum, E 9, 15 May 1648.

there may have been increase in decision, it cannot be certain that this resulted from the committee's real power and prestige.

Like the committee of both kingdoms the committee of both houses dealt with many different affairs. In May 1648, a meeting of seven did the following: directed that a letter from a certain one referred to the committee by parliament should be answered, namely, about leaving the management of certain affairs in Kent to the lord general; sent a letter to the lord general, that the houses had left to him management of the business of Kent, and that parliament had made the earl of Warwick lord admiral following upon the defection of the navy; sent a warrant to the officers of the ordnance to furnish the fort at Tilbury with arms and ammunition; wrote to Colonel Temple, remonstrating at his resentment, and telling him that order had been given to the officers of the ordnance for men and provisions; wrote to certain ones to procure thirty men for the fort at Tilbury; represented to the house of commons it was necessary for Colonel Weldon to be at Plymouth, and desired that money formerly voted be paid soon so that he could go down; despatched a letter to Major-General Skippon with information about a plot; another letter to him directing that he appoint a guard for the house of commons; sent a report to the house about some ordnance and works still at Whitehall, asking what was the pleasure of the house about keeping them guarded.[98]

Directions and recommendations were sent out to other committees, such as the committee of the navy, the committee of the revenue, the committee of the army.[99] Conferences were held and information transmitted: "That the Comittee of the Army be desired to be here tomorrow

[98] S. P. D., Interregnum, E 9, 29 May 1648.
[99] *Ibid.*, 20 June 1648; E 10, 16, 21, 24 July 1648.

in the afternoone" ;[100] "That the Comrs of the Navy be sent for to be here tomorrow in the afternoone."[101] On one occasion an order was given to report to the two houses letters from the lord admiral and the commissioners of parliament aboard with him.[102] At another time: "That so much of the Lord Admiralls letter as concernes the Duke of Lorraine be transcribed & sent to the Comittee for forreigne affaires."[103]

The committee of both houses sent out numerous letters; it gave information; it issued warrants. In former days a vast number of petitions had been wont to come before the privy council, but few came now before the committee. Its principal business was dealing with matters delivered by parliament for consideration or action. Constantly it referred or reported matters to the houses—sometimes to the lords,[104] but usually to the commons.

The work of the committee with respect to military and naval affairs was much less than that of the committee of both kingdoms had been at first, for neither parliament nor its executive committee now had much control over these things, they having come into the firm grasp of Cromwell and Cromwell's fellows. In 1648 the commons referred it to the committee at Derby House to take care, along with the lord admiral and the lord general, for measures to blockade Scarborough and press the siege of that place.[105] A little later is was ordered "That the whole dispatch from Lieutent Genll Cromwell be reported to both Houses, they consisting of eight papers."[106]

The committee of both houses or the committee at Derby House, established in January 1648, lasted little

[100] *Ibid.*, E 10, 12 October 1648.
[101] *Ibid.*, 17 October 1648.
[102] *Ibid.*, 6 September 1648.
[103] *Ibid.*, 11 September 1648.
[104] For example, *ibid.*, E 9, 1 July 1648.
[105] *Ibid.*, E 15, 4 September 1648.
[106] *Ibid.*, E 10, 26 September 1648.

more than a year. In January 1649 the army was completely master; a considerable part of the house of commons had been expelled; there was talk of abolishing the house of lords; extremists were in power; the king was brought to trial and put to death; his conquerors resolved to remake the government and inaugurate a new era. 7 February 1649 the commons ordered that the second committee of safety, established in June 1647 and the committee of both houses should have their power utterly taken away and that they be dissolved.[107] Thus ended the efforts of parliament to govern England through its own work and by means of a council that was formally a mere committee of some of its members.

[107] *C. J.*, vi. 133.

CHAPTER X

THE COUNCILS OF STATE UNDER THE COMMONWEALTH

4 JANUARY 1648-9 the house of commons resolved: [1]

That the Commons of *England*, in Parliament assembled, do *Declare*, That the People are, under God, the Original of all just Power:

And do also *Declare*, that the Commons of *England*, in Parliament assembled, being chosen by, and representing the People, have the Supreme Power in the Nation:

And do also *Declare*, That whatsoever is enacted, or declared for Law, by the Commons, in Parliament assembled, hath the Force of Law . . .

6 February, it was resolved "That the House of Peers in Parliament is useless and dangerous, and ought to be abolished: And that an Act be brought in, to that Purpose." [2] Next day followed the resolution: "That it hath been found by Experience, and this House doth declare, That the Office of a King in this Nation, and to have the Power thereof in any Single Person, is unnecessary, burdensome, and dangerous to the Liberty, Safety, and publick Interest of the People of this Nation; and therefore ought to be abolished: And that an Act be brought in, to that Purpose." [3] In March these resolutions were formally enacted.[4]

Meanwhile reconstruction of the government was being attempted. The period that began with the reforms of the Long Parliament and culminated with the execution

[1] *C. J.*, vi. 111.
[2] *Ibid.*, p. 132.
[3] *Ibid.*, p. 133.
[4] *Ibid.*, pp. 166, 168.

of Charles I and the subsequent resolutions in the commons had swept away much of the old organization and the old routine of the government. King, privy council, Star Chamber, court of wards, court of requests, exchequer, lord chancellor, lord treasurer, chancellor of the exchequer, secretaries of state, and other offices and officials were gone.[5] The government of England had been brought completely under the power of the parliament and the army. The army and its leaders were later to take power entirely for themselves; but hitherto government had supposedly been vested in those who continued to sit in the Long Parliament. In carrying on the government this parliament had done executive and administrative work largely through committees of itself, which thus took the place, so far as was desired, of the agencies previously vested with administrative and executive functions. So, the place of king and privy council had been taken by an executive council composed of members of the lords and the commons, styled the committee of both houses, or else the committee of both kingdoms when acting with commissioners from Scotland. Government was therefore mostly in parliament and in committees of the house of lords and of the house of commons, acting under the guidance and direction of a general committee composed of members from both of the houses.

In the reformation of the government now undertaken this system was largely preserved. No single executive was wanted, therefore executive and administrative functions would be vested in a group. Government was to be essentially in parliament, and in a smaller group of parliament's members. There could no longer be a committee of both houses, however, since the house of lords had just been abolished. Such functions, therefore, must be given to a group of members of the commons:

[5] Compare Mary A. E. Green, preface to *Cal. S. P. D., 1649-1650*, p. vii.

and men began to think of such a group now not as a committee of parliament but rather as a council of state.

7 February 1649 a committee of parliament was appointed to propose names of members for such a council and to draft regulations for it.[6] According to the French ambassador various proposals were brought forward during the debates in this committee. Some suggested that the council should be composed of a hundred members, none of them peers.[7] Others proposed a lesser number. Parliament now contained not more than eighty members. Probably its members, conscious of their weakness, desired to associate with themselves some of the abler of the supporters of parliament among the nobility and the upper classes, along with some of the leaders of the army and also some of the lawyers. Accordingly, when the committee presently decided to recommend that the council of state should consist of forty-one members, it proposed that the members should not be selected from the parliament alone but that peers and others should be capable of sitting. Presently it was arranged that five members of the house of parliament should be chosen to elect forty for a council of state. From these forty parliament should then choose thirty-six, to which number the five electors first chosen should be added, bringing the total to forty-one.[8]

The council was to have large powers in the management of domestic and foreign affairs, but it was rendered completely subordinate to parliament by constituting it for one year only, after which it might be renewed if parliament desired. Afterwards this idea of councils for a year or less was retained. All in all there were eight councils of state under the Commonwealth (1649-53) and

[6] *C. J.*, vi. 133.
[7] Gardiner, *History of the Commonwealth and Protectorate*, i. 4.
[8] M. A. E. Green, *Cal. S. P. D., 1649-1650*, preface, pp. xii-xxi.

three more under the restored Commonwealth (1659-60) after the Protectorate had been overthrown, the eleventh council ceasing to exist when Charles II returned. Under kingship the privy council had been practically a continuous body, though the king might dismiss any or all of its members whenever he desired, and legally a council ceased with the death of a king.

In the four first years of the interregnum there were five successive councils of state:

First Council of State 17 February 1649–16 February 1650

Second Council of State 16 February 1650–15 February 1651

Third Council of State 17 February 1651–30 November 1651

Fourth Council of State 1 December 1651–30 November 1652

Fifth Council of State 1 December 1652–20 April 1653

On the morning of 20 April 1653 Cromwell with his soldiers turned the Rump Parliament out of doors. That afternoon he was told that the council of state was sitting as if nothing extraordinary had happened. He went to their place of meeting. "Gentlemen, if you are met here as private persons, you shall not be disturbed; but if as a Council of State, this is no place for you; and since you cannot but know what was done at the House in the morning, so take notice that the Parliament is dissolved." [9] The writer of a newsletter informed his clients that "The Councell of State, with all commissions, is quite defunct." [10]

The fifth council existed for less than five months. The third, for reasons not stated, was ordained by the com-

[9] *The Memoirs of Edmund Ludlow* (ed. by C. H. Firth, Oxford, 1894), i. 357.

[10] Newsletter from the Clarendon Papers, reprinted in *English Historical Review*, viii. 533 (July 1893).

mons to end with the last of November, and so hold for less than ten months.[11] Each of the others endured for a year. All of them held for brief intervals that betokened uncertainty or unsettled times. Whatever powers were conferred upon them, these councils were but the creatures of parliament, and the executive continued to be weak.

29 April 1653, the remnant of the Long Parliament having been disposed of, the so-called decemvirate of seven military men and three civilians was established as what might be called a sixth council of state. Three members were added to this body in May. According to a contemporary: "The chief officers at present sitt in Councell with the General at Whitehall, where the Councell of State did sitt formerly, and dayly proposalls of Government are offred, but as yet they are irresolute what to determine though wee are made beleeve that for 6 weeks 12 shalbe chosen by the Army."[12] Whitelock, on several occasions after the expulsion of parliament, referred to "*Cromwell* and his Councel of Officers."[13]

4 July the nominated or Barebones parliament assembled, numbering one hundred and twenty members.[14] Cromwell, who had seized power, seemed to resign his dictatorship, telling the new parliament that the council of state, which was indeed his creature, held only during parliament's pleasure.[15] In July parliament established the seventh council of state, 8 July–1 November 1653. This council was designed to continue in power until 3 November.[16] At the beginning of November, when its

[11] *C. J.*, vi. 530.

[12] Newsletter, London, 29 April 1653, from the Clarendon Papers, reprinted in *E. H. R.*, viii. 534.

[13] Bulstrode Whitelock, *Memorials of the English Affairs* (London, 1682), p. 530.

[14] F. A. Inderwick, *The Interregnum* (London, 1891), p. 15.

[15] Gardiner, *History of the Commonwealth and Protectorate*, ii. 235, 237.

[16] *C. J.*, vii. 282-5; S. P. D. Interregnum, I 90, 9, 14, 15 July 1653.

tenure was to expire, it was arranged that a new council should be constituted for six months. This eighth council of state, 1 November–10 December 1653, held its last sitting two days before the breaking up of parliament by Cromwell's friends within and his soldiers without, 12 December 1653.[17]

By act of parliament constituting the first council of state there were forty-one members: [18]

The earl of Denbigh	
earl of Mulgrave	
earl of Pembroke	
Lord Grey of Warke	
Henry Rolle	lord chief justice of the upper bench
Oliver St. John	lord chief justice of the common bench
John Wilde	lord chief baron of the exchequer
John Bradshaw	
Thomas, Lord Fairfax	
Lord Grey of Groby	
Oliver Cromwell	
Philip Skippon	
Henry Martin	
Isaac Pennington	alderman of London
Sir Gilbert Pickering	
Rowland Wilson	alderman of London
Anthony Stapeley	
Sir William Masham	
William Heveningham	
Bulstrode Whitelock	
Sir Arthur Haselrig	
Sir James Harrington	

[17] *C. J.*, vii. 363.

[18] S. P. D., Interregnum, I 87, 13 February 1648-9; *C. J.*, vi. 140, 141.

Robert Wallop
John Hutchinson
Sir Henry Vane, junior
Dennis Bond
Lord Lisle
Alexander Popham
Sir John Danvers
Sir William Armyn
Valentine Walton
Sir Henry Mildmay
William Purefoy
Sir William Constable
John Jones
John Lisle
Colonel Ludlow
Thomas Scott
earl of Salisbury
Cornelius Holland
Luke Robinson

Two names proposed—Ireton and Harrison—had been rejected by parliament, and two others chosen instead.[19] The councillors were required to subscribe to an engagement—proposed by Ireton, that they approved the establishment of the high court of justice, the trial and execution of the king, and abolition of kingship and house of lords. At first only the regicides would do this; and in the end adherence of most of the nominees was got only when the engagement was altered. Meanwhile, Lord Grey of Warke declared he could sign nothing emanating from one house of parliament only. Thus the membership was forty, and another member never took his seat. Of the thirty-nine, three members were peers, three judges, and two others—an alderman of London and John Brad-

[19] *C. J.*, vi. 140, 143.

shaw—were not members of the house of commons. There were, accordingly, thirty-one members of the council who were also of the parliament.[20]

12 February 1650 thirty-seven of the members of the first council of state were elected by parliament to constitute a second council. Of the four not chosen for the new council the earl of Pembroke was dead, Lord Grey of Warke had never accepted the engagement, the earl of Mulgrave had not taken his seat, Sir John Danvers had lost favor with parliament by suggesting that the new council should have more power and independence. The earl of Salisbury was now chosen as a new member; and 20 February four others—Thomas Challoner, John Gurdon, Colonel Herbert Morley, and Sir Peter Wentworth.[21] The second council of state, therefore, contained forty-two members.

In February 1651 parliament resolved to reserve twenty seats for new members. Twenty-one members were continued:

Lord Chief Justice Rolle
Lord Chief Justice St. John
Serjeant Bradshaw
Lord General Cromwell
Major General Skippon
Sir William Masham
Lord Commissioner Whitelock
Sir Arthur Haselrig
Sir James Harrington
Sir Henry Vane
Dennis Bond
Sir William Armyn
Colonel Wauton

[20] Gardiner, *History of the Commonwealth and Protectorate*, i. 8.
[21] *C.J.*, vi. 360, 361-3, 369; S.P.D., Interregnum, I 88, 20 February 1649-50.

Sir Henry Mildmay
Colonel Purefoy
Lord Commissioner Lisle
Thomas Scott
John Gurdon
Lord Grey
Sir Gilbert Pickering
Thomas Challoner

The twenty new members were

Richard Salwey
Alderman Allen
Robert Goodwin
William Leman
Major General Harrison
Edmund Prideaux
Sir Thomas Widdrington
John Carew
Sir John Bourchier
Sir John Trevor
Lieutenant General Fleetwood
Henry Darley
Thomas Lister
William Cawley
Walter Strickland
Nicholas Love
William Say
John Fielder
George Thompson
Sir William Brereton.[22]

The total membership was forty-one, all of whom were in parliament.

In November 1651 a fourth council of state was chosen by parliament. The total membership was forty-one.

[22] *C. J.*, vi. 532, 533.

Twenty-one members were to be continued from the council of state preceding:

The lord general
Lord Commissioner Whitelock
Lord Chief Justice St. John
Sir Henry Vane
John Gurdon
Lieutenant General Fleetwood
Lord Chief Justice Rolle
Lord Commissioner Lisle
Serjeant Bradshaw
Sir Arthur Haselrig
Dennis Bond
Thomas Scott
Colonel William Purefoy
Colonel Valentine Wauton
Sir James Harrington
Sir William Masham
Thomas Challoner
Richard Salwey
Sir Gilbert Pickering
John Carew
Nicholas Love

Twenty new members were chosen:

Herbert Morley
Robert Wallop
Anthony Stapeley
Sir Peter Wentworth
Lord Lisle
Alexander Popham
John Corbett
Abraham Burrell
William Hay
Cornelius Holland

Alderman Pennington
William Masham
John Downes
Sir William Constable
John Dixwell
Henry Nevill
Henry Herbert
Robert Blake
earl of Pembroke
Henry Marten [23]

Thirteen of them had not been in any of the councils preceding.

In the fifth council, arranged 24 and 25 November 1652, there were only three members altogether new—Colonel Ingoldsby, Colonel Norton, Colonel Sidney; yet while eighteen members had sat on some one of the first three councils of state, there was now a marked change again, since only twenty-one had been members of the fourth council.[24]

The sixth council of state consisted of

Colonel Robert Bennett
John Carew
Oliver Cromwell
Major General Desborough
Major General Harrison
Major General Lambert
Sir Gilbert Pickering
Colonel Stapeley
Walter Strickland
Colonel William Sydenham

to whom were added during May

Colonel Philip Jones

[23] *C. J.*, vii. 41, 42, 43.
[24] *Ibid.*, pp. 220, 221; *Cal. S. P. D., 1652-1653*, pp. vii, xxviii-xxxiii.

Colonel Matthew Tomlinson
Samuel Moyer [25]

Of them five had been members of the fifth council.

In July 1653 parliament established the seventh council of state.[26] 9 July, fourteen members of this council were chosen, including all thirteen of the group preceding:

Lord General Cromwell
Major General Lambert
Major General Harrison
Major General Desborough
Colonel Tomlinson
Sir Gilbert Pickering
Walter Strickland
John Carew
Colonel Philip Jones
Colonel Stapeley
Colonel Sydenham
Samuel Moyer
Colonel Bennett
Major Salwey

Any five were to be a quorum.[27] Five days later seventeen other members were added:

Lieutenant General Fleetwood
Richard Norton
Alderman Titchborne
Colonel Hewson
John Williams
Mr. Howard
Mr. H. Lawrence
Mr. Hollister
Mr. Courtney
Viscount Lisle

[25] *Cal. S. P. D., 1652-1653,* preface, pp. xxxiv, xxxv.
[26] *C. J.,* vii. 282-5.
[27] S. P. D., Interregnum, I 90, 9 July 1653.

Mr. Broughton
Mr. Major
Mr. Montagu
Mr. Thomas St. Nicholas
Sir James Hope
Sir Anthony Ashley Cooper
Sir Charles Wolseley

of this enlarged council any seven were to be a quorum.[28]

The eighth council also contained thirty-one members, of whom sixteen had been in the council preceding:

Lord General Cromwell
Sir Gilbert Pickering
Major General Desborough
Mr. Strickland
Mr. Lawrence
Colonel Sydenham
Colonel Jones
Sir Charles Wolseley
Colonel Titchborne
Sir Anthony Ashley Cooper
Mr. Carew
Colonel Montagu
Major General Harrison
Viscount Lisle
Mr. Major
Captain Howard

The new members elected by parliament were:

Colonel Rous
Sir William Roberts
Mr. Sadler
Sir Robert King
Colonel Henry Cromwell
Dr. J. Goddard

[28] *C. J.*, vii. 283, 284, 285; S. P. D. Interregnum, I 90, 14, 15 July 1653.

Sir William Brownlow
Colonel Barton
Lord Ewre
Captain Stone
Colonel George Fleetwood
Colonel James
Mr. Anlaby
Mr. Jervas Bennett
Colonel Bingham [29]

In fine, the membership of the councils of state, dependent entirely upon choice by parliament, varied considerably from one council to the other. Yet, a considerable nucleus of the same members was found in nearly all of them—the principal break being between the fifth and the sixth councils, after Cromwell had driven the Rump Parliament out, and not a few of the members of councils of state had served on the committee of both houses or the committee of both kingdoms preceding. Altogether, there was almost as much continuity and homogeneity of membership in these several councils of state as there had once been in the privy council over any considerable number of years.

The instructions drawn up 13 February 1649 for the first council of state defined its powers. Its members were authorized to oppose the pretensions of Charles Stuart, eldest son of the late king. They were to direct the militia and armed forces by sea and by land; preserve safety and put down tumults; in any emergency grant commissions and raise armed forces. They were to use all means to reduce to obedience Ireland, Jersey, Guernsey, the Scilly Isles, and the Isle of Man. They were to furnish magazines, build and repair the commonwealth's shipping. They must encourage trade and promote foreign plantations. They were to direct the conduct of foreign affairs,

[29] *C. J.*, vii. 344.

preserving amity with states abroad, sending out ambassadors and agents. In all respects they were to be the council of the commonwealth: "You are to advise and Consult of any thing concerning the good of this Comonwealth and report your opinions concerning the same as you find occasion to the Parliam[t]." [30] They might send for persons whom they desired to consult, and for any records or writings needed for their information. In case of danger to the commonwealth, they might administer an oath to discover the truth. They might imprison or take bonds from those who offended against parliament or council—a power much like that which the privy council had had. They might charge the public revenue with sums required for foreign negotiations, intelligence, subordinate officers or attendants. They were to observe and execute such further orders as parliament might give from time to time. Unless otherwise ordered by parliament the power committed to the council of state would continue for a year. They might appoint committees or any person or persons for examining, for receiving information, or preparing business. They were to meet that afternoon at Derby House; afterwards at such time and places as they thought fit. It was also provided that each member should subscribe to an engagement before he acted—this the equivalent of a privy councillor's oath.[31]

Additional instructions were given to succeeding councils. In 1651 the third council of state was bidden, in addition to the instructions given to its predecessor, to do various particular things. It was to care for the timber and the wood in the forests of the state. Prevent meetings dangerous to the commonwealth. Care for the library at St. James and the statues and the pictures there. It was to take care of the supplemental pay of the army and the

[30] S. P. D., Interregnum, I 87, fo. 12; *C. J.*, vi. 138, 139.
[31] S. P. D., Interregnum, I 87, 13 February 1648-9.

extraordinary charges of carrying on the war in Scotland. It was to examine and report on the originals of the powers given by the king of Portugal to the minister sent by him to England. It was to remove twenty miles from London and Westminster persons who might be dangerous. It was to remove from garrisons, cities, and large towns ministers who would not acknowledge the present government by subscribing the engagement. It was to take care that the recruits for Ireland and for Scotland did not have free quarter or commit any abuses.[32]

In July 1653 the instructions to the seventh council of state were much like those given in February 1649 to the first one, except that again several particulars were added: the council was to supervise the felling of timber for the state's ships; prevent meetings dangerous to the safety of the state; take care of the public library at St. James; give warrants for issuing the rest of the money derived from selling fee-farm rents, rendering to parliament account thereof; it was to remove twenty miles from London and Westminster any persons whose abode there seemed prejudicial to the public safety; it was to prevent the mischief of free quarters, and abuses from short marches by soldiers; it was to have all warrants for money fairly engrossed in a book, to be delivered shortly to parliament; it was to encourage fisheries; preserve the timber; and only persons of approved honesty and godliness were to be employed in the council's service.[33] These instructions which were considered and drawn up by parliament were based upon those previously made for the fifth council of state, with some alterations and additions.[34]

Procedure and routine were settled by regulations adopted by the successive councils, all of them much like

[32] S. P. D., Interregnum, I 89, 13 February 1650-1.
[33] *Ibid.*, I 90, 9 July 1653.
[34] *C. J.*, vii. 283.

those drawn up by the first council in 1649.[35] Time of meeting, conduct of business, method of procedure were regulated by these rules much as they had been in the rules of the privy council made from time to time under James I and Charles I.

The councils probably met in various places at first, though of this there is not much record. It seems certain, however, that meetings for the most part were held in Whitehall. The first meeting had been arranged to be at Derby House; but immediately parliament directed that Whitehall be prepared for the council.[36] Shortly after notice was to be sent to the lord general to remove the soldiers from Whitehall, that the place might be made ready as parliament had ordered.[37] It was not easy to dispossess the warriors, however. In July the serjeant was told to see that lodgings were provided for the commissioners of the great seal—Whitelock and Lisle—and also for the rest of the council.[38] Another month passed and the council wrote to the lord general that several orders had been given for clearing all persons out of Whitehall, so that lodgings might be provided for the members and their attendants, according to parliament's command; that many officers and others still remained there, thus keeping away councillors, who would like to lay in store of firing and make other preparations; would the lord general, by the following Friday night send off all except officers and soldiers of the guard?[39] Some weeks later the councillors again wrote to Cromwell, that they had issued warrants for removing those who were in Whitehall, to make way for themselves, but no effect had been produced; that an order had been sent to the marshal

[35] S. P. D., Interregnum, I 62, 17 May 1649; *C. J.*, vii. 283.
[36] S. P. D., Interregnum, I 87, 17 March 1648-9.
[37] *Ibid.*, I 62, 13 April 1649. [38] *Ibid.*, 19 July 1649.
[39] *Ibid.*, I 94, 18 August 1649.

general, but he had rejected it with contempt; they wished the lord general to order his immediate removal, since he was in possession of some of the rooms granted to members of the council.[40] When instructions were being drawn up for the second council of state, in February 1650, parliament bade the council hold its first meeting at Whitehall, then meet where the members thought fit.[41]

In August 1649 the council ordered that all the keys of all the gates and doors of St. James's Park—on which Whitehall abutted—should be delivered to Colonel Pride, and that all doors belonging to private houses that led into the park be nailed up.[42] A little later it was provided that all members of the council should have keys to the garden at Whitehall, and the secretary of the council one also.[43] It was presently arranged that officers should be appointed to keep the privy lodgings and also the chapel at Whitehall, and that all members of the council with lodgings in Whitehall should have hangings and accommodations out of the £ 10,000 worth of goods reserved for the use of the state.[44] It was also ordered "That Mr Milton shall have the lodgings that were in the hands of Sr John Hippesly in Whitehall for his accomodation as being Secretary to this Councell for forreigne Languages."[45] In February 1650 the serjeant was ordered to see that lamps were set up at convenient places in the galleries about Whitehall, to make the passage convenient to members of the council.[46] A year later: "That the Chamber in Whitehall where the Councell doth now usually sit shall be the ordinary place for the meeting of this Councell."[47]

Various orders went forth for the dignity, comfort, or convenience of the council. In February 1649 parliament

[40] S. P. D., Interregnum, I 94, 15 September 1649.
[41] *C. J.*, vi. 364.
[42] S. P. D., Interregnum, I 63, 30 August 1649.
[43] *Ibid.*, 15 September 1649.
[44] *Ibid.*, 2, 8 November 1649.
[45] *Ibid.*, 19 November 1649.
[46] *Ibid.*, 1 February 1649-50.
[47] *Ibid.*, I 65, 17 February 1650-1.

gave direction that the council should have a great and a lesser seal, the impression on each: "The Seal of the Council of State, appointed by the Parliament of England." [48] In July: "That the mace which is Ordered to be made for the Councell of State shall be guilded as that was which was made for the use of the Parliament." [49] On one occasion £100 was appropriated to provide firewood for the council's use during winter.[50] In April 1650 order was issued for four dozen new chairs to furnish the council chamber, "And that it be referred to the Committee for Whitehall to consider what Chaires are most fit for that service." [51] Some time before order had been given to reserve from the king's goods various hangings, carpets, chairs, stools, and beds, if possible, to be kept for furnishing the lodgings of the council of state.[52]

From time to time directions were given to the guard to ensure privacy for the council. In 1649 the officers of the guard were ordered to see to it that no women who clamored upon the council on pretence of debts due them from parliament should be allowed to enter the building.[53] In February 1650 order was given that no person, unless he were a member of parliament or of the council of state, should stay in the lobby behind the council chamber on any pretence whatever when the council was sitting, that the doors leading to the lobby should be locked during this time and opened only for members of parliament or of the council.[54] At the same time it was provided that twenty men fully armed should be in the guard chamber every afternoon, to attend until the rising of the council.[55]

Meetings of the council of state were frequent. By the first regulations adopted the council was to sit every day,

[48] *C. J.*, vi. 145.
[49] S. P. D., Interregnum, I 62, 4 July 1649.
[50] *Ibid.*, 1 August 1649.
[51] *Ibid.*, I 64, 11 April 1650.
[52] *Ibid.*, I 63, 31 August 1649.
[53] *Ibid.*, I 62, 4 August 1649.
[54] *Ibid.*, I 63, 1 February 1649-50.
[55] *Ibid.*

except Sunday—which marks in striking fashion the Puritan conception of the Sabbath, since Sunday had been a favorite day for privy council meetings in the period preceding.[56] The rule adopted by the second council of state was similar: a meeting every day except Sunday.[57] Meetings were indeed much more numerous and more regularly held than meetings of the privy council had been. It is estimated that for the period 17 February 1648-9 to 15 February 1649-50—a year lacking one day—there were 319 meetings of the council of state, though on some occasions two meetings were held in one day.[58] From 17 February 1650-1 to 29 November 1651—286 days—there were 249 meetings.[59] From 1 December 1651 to 30 November 1652, exactly a year, there were 330 meetings.[60] From 1 December 1652 to 15 April 1653—that is, 136 days—there were 121 meetings of the fifth council of state.[61]

With such rules and such regularity it is probable that councillors were usually expected to attend from day to day during the week, unless notice was otherwise given. None the less, special summons to meetings sometimes occur: "That all the Members of the Councell be summoned to be at the Councell to morrow morning at eight of the Clock"; [62] "That the Councell doe meet to Morrow at one of the Clocke, in the afternoone; and a Summons is to goe out to the Members of the Councell to that purpose." [63] On one occasion a council was summoned for eight o'clock Monday morning, and the lord general was particularly desired to come.[64] At another time a

[56] S. P. D., Interregnum, I 62, 17 May 1649.
[57] *Ibid.*, I 64, 27 February 1649-50.
[58] M. A. E. Green, preface to *Cal. S. P. D., 1649-1650,* p. xiv.
[59] Green, preface to *Cal. S. P. D., 1651,* pp. xxv-xxxv.
[60] *Cal. S. P. D., 1651-1652,* preface, p. xxiv.
[61] *Cal. S. P. D., 1652-1653,* preface, pp. xxviii-xxxiii.
[62] S. P. D., Interregnum, I 62, 26 February 1648-9.
[63] *Ibid.*, I 65, 14 March 1650-1. [64] *Ibid.*, I 29, 19 June 1652.

meeting of the council was appointed for the next afternoon at five o'clock, to receive from the admiralty committee an account of the fleet, the members of the council then in town to have notice.[65]

According to the regulations of the first council meetings were to begin at half past two in the afternoon, and not last beyond half past six, except for affairs of importance.[66] Soon after the council was established a rule had been adopted that no meetings in the morning were to be continued later than nine o'clock on days when parliament was sitting.[67] In 1650 the rule was that the daily meetings were to begin at three in the afternoon and not last beyond six when parliament was in session, save for such business as ought not to be put off till next day.[68] In 1653 it was ordered that the council should sit only in the mornings, from seven o'clock until twelve, or after, if there were cause: and that the committees of the council should sit in the afternoon.[69] That these rules were frequently altered, however, is seen in the regulation made at the first sitting of the last council of state in November 1653, that the council was not to sit past seven in the evening, unless engaged in the debate of some important affair, or unless it seemed necessary for the dispatch of something of concern to the commonwealth, in which case the council was to be moved by the president to give order for sitting until the business was finished.[70]

In relation to the size of the body attendance was good, for the most part better than that of privy councillors before the dispersal of the privy council, and better than afterwards it was when privy council was established again. It had at the beginning been arranged that the

[65] *Ibid.*, I 39, 4 February 1652-3.
[66] *Ibid.*, I 62, 17 May 1649.
[67] *Ibid.*, I 87, 8 March 1648-9; *C. J.*, vi. 158.
[68] S. P. D., Interregnum, I 64, 27 February 1649-50.
[69] *Ibid.*, I 69, 8 June 1653.
[70] *Ibid.*, I 72, 3 November 1653.

quorum should be nine.[71] Of the first council of state, of which nominally the membership was forty-one and actually thirty-nine, the average attendance at meetings has been estimated at nearly fourteen.[72] The membership of the second council was forty-two, the average attendance eighteen; of the third council, of which the membership was forty-one, the average attendance was nearly twenty.[73] Of the fourth council the average attendance at meetings was but little short of sixteen.[74] Of the fifth council it was nineteen. Out of 121 meetings in 1652-3 Bradshaw was present 119 times, Cromwell 55 times.[75] At the thirty-seven meetings of the eighth council of state, 1 November to 10 December 1653, the average attendance was a little short of sixteen, out of a membership of thirty-one.[76] In 1650 the secretary was ordered to give in each Monday a paper containing the names of those who had been present at council meetings each day of the week preceding.[77]

It has sometimes been said that the council of state was so large as compared with parliament that it was able to control what parliament did. It was stated by one who worked much in the records of this time that the average attendance of parliament during the three months before Pride's Purge was one hundred and four, during the three months after that event only fifty-seven. The deduction was that the council of state, numbering nominally forty-one members, could, if it acted together, control parliament of which it was a part; and that, in effect, parliament and council of state referred matters from one to the other

[71] *C. J.*, vi. 143.
[72] Green, *Cal. S. P. D., 1649-1650,* preface, p. xiv.
[73] *Cal. S. P. D., 1650,* preface, p. vii; *Cal. S. P. D., 1651,* preface, p. xxxv.
[74] *Cal. S. P. D., 1651-1652,* preface, p. xxiv.
[75] *Cal. S. P. D., 1652-1653,* preface, p. vii.
[76] *Cal. S. P. D., 1653-1654,* preface, pp. xxxvi, xxxvii.
[77] S. P. D., Interregnum, I 64, 27 February 1649-50.

in an effort to shift responsibility.[78] It may be added that during the time of the third council of state, of which the membership was forty-one and the average attendance about twenty, the average attendance at parliament was fifty; that during the time of the fourth council of state the average attendance in parliament was fifty-seven. Gardiner has shown, however, that with respect to some of these figures nothing of significance is to be deduced. He declares that during the first three months of the first council of state—when, as he correctly points out, only thirty-one members sat both in parliament and council of state—while administrative recommendations were almost always accepted as a matter of course and without division by the house, yet when any controversial question was raised, members of the council almost always appeared in parliament as tellers on opposite sides when divisions were taken.[79] From this he deduced that members of the council were far from acting in unison when matters in parliament came to division, and that the division in parliament was much like previous division in the council itself.

At meetings of the council of state were present not only the members of the council who chose to attend, and, sometimes, members of parliament not of the council, but, as had been the case at meetings of the privy council, officials not of the council and outsiders whom the council summoned for information or assistance or for any purpose whatever. In April 1650 a letter from the council to a certain Thomas Swayne of Dorsetshire notified him that he was to attend the council at Whitehall, to confer about matters of importance, he to give notice of his arrival to the secretary of the council.[80] A few days after, the lord

[78] M. A. E. Green, preface to *Cal. S. P. D., 1649-1650,* pp. xii-xxi.

[79] *History of the Commonwealth and Protectorate,* i. 9, 10.

[80] S. P. D., Interregnum, I 95, 2 April 1650.

lieutenant of Ireland was desired, for divers important reasons, to come speedily to the council of state, leaving management of his affairs meanwhile in the hands of those whom he thought fit.[81] In 1651 the duke of Richmond was notified that the council had occasion to speak with him about matters of public concern, and wished him to be present the following Tuesday afternoon.[82] In 1653 the council ordered: "That the Lords Com^rs of the Great Seale bee sent unto to come to the Councell to morrow morning by nine of the Clocke and that they doe cause the Great Seale to bee brought along with them." [83]

In various regulations the order and method of business were carefully arranged. According to the rules made for the first council of state all members were bidden to attend daily unless they had leave of absence. When as many as nine members were present none were to leave until the council arose. No one might remain in any of the private rooms during a sitting of the council. At a meeting letters previously voted upon were to be read, approved, and signed first. Then the letters from abroad, foreign intelligence and other information must be read without any speaking upon them, after which those of most weight or most requiring dispatch should be taken up. Next, committees of the council were to report upon business that had been referred to them. All letters to the council of state were to be opened at the council in the presence of at least three of the members, and then be delivered to the secretary. If letters of importance arrived when the council was not sitting, they might be opened by the president and any two members, who might summon a council about them if that seemed needful. No one was to interrupt a debate with any new business. unless it were business of great importance or where haste was required. No mem-

[81] S. P. D., Interregnum, I 95, 9 April 1650.
[82] *Ibid.*, I 97, 26 December 1651.
[83] *Ibid.*, I 69, 21 June 1653.

bers were to speak of private matters during debate: in such case the president was to call the one interrupting to order, and the speaker pause until the private discourses had ceased. Whatever was propounded, seconded, and supported by a third, was to be put to vote unless a member spoke against it. The results of all the votes were to be recorded in the books of the council, but not the council debates. One day a week must be appointed for petitions, that petitioners might not be wearied with long waiting. The lord president was to enforce obedience to these orders.[84] Similar regulations were adopted next year,[85] and afterwards others like them. In 1653 it was provided that all letters directed to the council should be opened at the council by the "Lord President"; that he should acquaint the council with them, and cause them to be read out at the council, that the necessary answers might be returned.[86]

In the period previous the king or, in his absence, one of the important members of the privy council, such as the archbishop of Canterbury or the lord president, had presided over the council. The office of lord president, existent again from 1621 to 1631 fell into abeyance, and for the council of the king, remained in abeyance until 1679. In the time of the councils of state, however, the office was revived in some fashion, and presently an official appeared with that title. In February 1649, when regulations were being drawn up, it was proposed in parliament "That there shall be a Lord President of the Council of State"; but this was at once voted down.[87] In one of the first meetings of the first council of state a communication was signed by Oliver Cromwell, "*præses pro tempore*";[88] and

[84] *Ibid.*, I 62, 17 May 1649.
[85] *Ibid.*, I 64, 27 February 1649-50.
[86] *Ibid.*, I 71, 14 October 1653.
[87] *C. J.*, vi. 143.
[88] S. P. D., Interregnum, I 94, 20 February 1648-9.

two days later it was arranged that the chairman should sign letters and warrants.[89] Despite the injunction of parliament, shortly afterward, in March 1649, it was ordered " That one of this Councell shall be made choyce of to be President of the Councell." Serjeant Bradshaw was chosen. If the president was absent, yet any nine of the council assembled in the council's place of meeting, should act as a council notwithstanding the president's absence.[90] In February 1650, the second council of state immediately chose Bradshaw as " President of the Councell "; [91] and this followed with the assembling of the third council in February 1651.[92]

Presently a change was made. Instead of having a president who held office until displaced or during the period of the council, as had been the case with Bradshaw, it was thought better that a succession of presiding officers should hold, each one for a brief term. In November 1651 parliament resolved that no person of any committee of parliament or of the council of state should for the future be in the chair of such committee or of the council of state longer than one month at a time.[93] At the first meeting of the fourth council in December 1651 it was ordered " That a President shall now be chosen to continue untill this day Moneth." [94] Bradshaw was chosen for four weeks; others followed for similar terms.[95] In April 1653 it was ordered " That Maior Genll Lambert be President of the Councell for the weeke next ensueing." [96] In May Major General Desborough was appointed president of the council for fourteen days.[97]

[89] S. P. D., Interregnum, I 62, 22 February 1648-9.
[90] *Ibid.*, 10 March 1648-9.
[91] *Ibid.*, I 64, 18 February 1649-50.
[92] *Ibid.*, I 65, 17 February 1650-1.
[93] *C. J.*, vii. 43.
[94] S. P. D., Interregnum, I 66, 1 December 1651.
[95] *Cal. S. P. D., 1651-1652*, preface, pp. xxiii, xxiv.
[96] S. P. D., Interregnum, I 69, 30 April 1653.
[97] *Ibid.*, 27 May 1653.

The tenure was diminishing and the power was apparently less, but the title was being enhanced, and toward the end of this period the president of the council of state was sometimes called by the title given formerly to the president of the privy council. In 1653, with respect to an order of the council that petitions must be considered by a committee before being presented to the council of state: "The Lord President of the Councell is to take Care that noe Member of the Councell doe any thing to the infringing of this Order." [98] A little later it was ordered "That Col: Mountagu bee appointed Lord President of the Councell for one Weeke longer." [99] In April 1653 it was ordered that "the President of the Councell for the tyme being" should sign such letters and warrants as were made in the council's name, and that the secretary should also sign them, saying that they were signed by order of the council.[100]

For assistance in its work the council of state, as authorized by the regulations, appointed certain officers and assistants. There were now no secretaries of state, though such officials had been zealous and important members of the privy councils of James I and Charles I. The council of state appointed a secretary of the council, a secretary for foreign languages, and others, these secretaries being much like the king's secretaries had been before secretaries of state rose to greatness. In July 1649 it was ordered that the secretary of the council have a salary of forty shillings a day, the assistant secretary, twenty shillings. The secretary was to obtain these sums and also the salaries of the four clerks of the council whom he was to pay, out of such fees payable for council charges as came to his hands.[101] Men afterwards well known held these

[98] *Ibid.*, I 71, 14 October 1653.
[99] *Ibid.*, I 72, 30 November 1653.
[100] *Ibid.*, I 69, 30 April 1653.
[101] *Ibid.*, I 62, 4 July 1649.

positions: in 1652 Walter Frost was succeeded as secretary of the council by John Thurloe.[102] John Milton was secretary for foreign languages to the council.

In 1649 it was ordered that the council secretary should have power, upon any information given to him, to stay any persons whom he might consider dangerous to the commonwealth, and cause them to be brought before the council.[103] That year it was ordered that two men should be allowed to the secretary of the council to be employed by him in secret service.[104] In 1651 the council declared that the secretary was to manage intelligence—secret service both at home and abroad, for the service of the state.[105] In 1653 it was ordered "That Mr Thurloe doe present to the Councell betweene this and Monday morning next the names of two or three persons whom he shall judge fit to be employed as Assistant to him in the businesse of forreigne affaires, to the end the Councell may out of them make choyce of such of them as they shall judge fit."[106] About the same time the secretary of the council was ordered to make out weekly an extract of foreign intelligence and send it to Lord Fleetwood—the member of the council of state who was commander of the English forces in Ireland.[107] In the last council of state Thurloe was again appointed secretary to the council, with two assistant secretaries, while Milton was to remain in the same position he had held in the council of state preceding.[108]

The councils of state, as had been the case with the privy council in earlier times, had messengers to serve them. By the council regulations of 1650 it was ordered that whenever the council sat all the messengers of the

[102] S. P. D., Interregnum, I 66, 29 March 1652.
[103] *Ibid.*, I 62, 7 August 1649.
[104] *Ibid.*, I 63, 7 September 1649.
[105] *Ibid.*, I 20, 16 June 1651.
[106] *Ibid.*, I 71, 14 October 1653.
[107] *Ibid.*, 17 October 1653.
[108] *Ibid.*, I 72, 3 November 1653.

council, not being employed by the secretary, should give constant attendance in the room called the backstairs, from three o'clock until the secretary dismissed them.[109]

In February 1649 parliament resolved that every person appointed to the council of state must subscribe to an engagement before he acted as a member.[110] This engagement was rather a particular device by which parliament in uncertain times strove to make sure of the fidelity of those whom it employed than the equivalent of the privy councillor's oath imposed in the past. A few days later the council ordered that the oath of secrecy formerly used by the committee at Derby House should, *mutatis mutandis*, be used by its own members.[111] Accordingly, the councillors took an oath of secrecy, but they were permitted to reveal whatever was debated or spoken except this had been forbidden by the major part of the council.[112] In 1650 when the second council was being arranged, parliament itself appointed an oath of secrecy for the members:

> I being nominated, for the Year ensuing, of the Council of State, by this present Parliament, do promise, in the Sight of God, that, through his Grace, I will be faithful in the Performance of the Trust committed to me; and therein faithfully pursue the Instructions given to the said Council by this present Parliament; and not reveal or disclose any thing, in Whole, or in Part, directly or indirectly, that shall be debated or resolved upon in the Council, and ordered to be kept secret by the said Council, without the Command, Direction, or Allowance, of the Parliament, or Council.

This oath was to be administered by any three of the council.[113] Nearly similar was the oath of secrecy pre-

[109] *Ibid.*, I 64, 27 February 1649-50.
[110] *C. J.*, vi. 139.
[111] S. P. D., Interregnum, I 62, 23 February 1648-9.
[112] *Ibid.*, 1 64, 23 February 1649-50.
[113] *C. J.*, vi. 370.

scribed by parliament for the last council of state in November 1653.[114] In 1650 also it was allowed that any member of the council might relate by word of mouth to any member who had taken the oath of secrecy, any matter debated or resolved at the council, provided he declared to such member that he was under oath of secrecy.[115]

The papers and records of the various councils of state seem to have been taken and kept much as those of the privy council had formerly been. Letters, warrants, orders were drawn up by the clerks and signed by the president or by the president and the secretary. A considerable number of them were doubtless scattered to various places or carried off or forgotten, but numerous books embodied also a more permanent record. They are for the most part order books, with less full information about the proceedings at meetings than is contained in the register of the privy council. In 1653 the council of state commanded: [116]

> That all the Orders of the Councell bee entred in a Booke at the Councell and not in loose papers, and that they bee afterwards transcribed into a faire Booke and read at the Councell at the next tyme of their sitting, and noe orders are to bee given out till what is herein ordered bee duely executed, and alsoe noe Letters or warrants which are prepared in pursuance of any of the said Orders or Votes of the Councell are to be offred to bee signed untill they shall have beene read & approved of at the Councell.

[114] *C. J.*, vii. 345.
[115] S. P. D., Interregnum, I 64, 27 February 1649-50.
[116] *Ibid.*, I 71, 28 September 1653.

CHAPTER XI

WORK OF THE COMMONWEALTH COUNCILS OF STATE

THE work of the councils of state, like that of the privy council before the civil wars, was of such magnitude and variety as to make difficult any description that would bring it back to the understanding. Perhaps this can best be attained by detailing what was done at particular meetings of the council, and then by stating in artificial categories what was generally or for the most part transacted.

At a meeting of the first council of state, 22 February 1649, at which Cromwell and nine others were present, it was arranged that the chairman should sign letters and warrants passed by the council; that warrants should be issued for certain things desired by the Dutch ambassador; suggest to parliament that certain statues, pictures, and the public library be given into charge of the council to be disposed of for the public use; report to the house, in respect of a copy of a certificate from the commissioners of the navy concerning timber in Eltham Park, that the council found nothing in its instructions about disposing of timber, and desired the parliament to bestow power somewhere for restraining waste "upon the Lands belonging to the Republique"; suggestion of an ensign for the ships in the state's service also for carving on the sterns; reference of a matter to the commissioners of the navy, desiring speedy report thereon; appointment of a committee of four to examine certain persons in the next room; appointment of Walter Frost, jr., as assistant to his father—the secretary of the council; an order that both the secretary and his assistant should promise to

reveal nothing without special leave; a letter to the lord general asking for an account of the army, garrisons, stores, artillery, magazines; an order that £200 be paid out of the public revenue to the secretary, for making despatches and sending messengers, and that a "Comand" be given to the treasurer of the revenue for this sum; order to the commissioners of the navy that they send the council account of the number of ships in readiness with the whereabouts of such ships; report to the house that the ordinance for putting the admiralty into commission should be speedily despatched; special recommendation to the navy commissioners that they give all possible consideration to Captain Haddock's desires.[1]

At the first meeting of the sixth council of state, 29 April 1653, the lord general and seven others present, it was ordered that the commissioners for inspecting the treasuries be desired to give the council a statement about the several treasuries, some time next day, if possible, but not later than the next Monday; that a report be given to the council about all business relating either to Ireland or to Scotland, that had been before the committee for Irish and Scottish affairs of the council preceding; that Mr. Thurloe prepare and present to the council a report about the state of his office, what persons were employed there, and the whole charge; for the afternoon meeting first business to be the reading of Colonel Lilburne's letter, then the letter from the states general to be considered. That afternoon the lord general and eight other councillors met. It was ordered that £10,000 worth of provisions be sent to Scotland, customs free, for the army, a warrant for this to be issued; a convoy to be appointed for provisions bound for Scotland, or the contractors to be relieved of liability if no convoy was furnished; debate

[1] S. P. D., Interregnum, I 62, 22 February 1648-9.

concerning the Dutch letters to be resumed the following Monday afternoon; that the judges of the admiralty and another attend the council next morning; that the commissioners for inspecting the treasuries come to the same council meeting; that a committee appointed to investigate alleged abuses at Ely House report without delay to the council; that the committee investigating the office of the inland post make its report to the council.[2]

Generally speaking the council of state dealt with matters referred to it by parliament; it carried out the orders of parliament; it conferred with the various committees of parliament; and to parliament it made numerous recommendations and reports. It attended to much business connected with taxation and finance, and with the administration of the army and the navy. It was busied with many matters that concerned local affairs and a smaller number connected with the plantations, Ireland and Scotland. It considered foreign intelligence and reports, and attempted to carry on intercourse with governments abroad. It sent communications and orders to local officials. It considered petitions, granted passes, and issued numerous warrants for executing orders and for payment of money. In accordance with a custom that had grown during the Stuart period, and that would be much more evident in the future, a great deal of the work of the council of state was done with the assistance of committees or parts of itself. There were at this time a committee for the army, a committee on admiralty affairs, a committee for foreign affairs, besides many others, while the committee of the whole council was developing clearly. A great part of all the activities of the members of the councils of state was exerted in committees rather than in council.

[2] *Ibid.*, I 69, 29 April 1653.

During this period, as during the earlier time of the struggle with Charles I, the government of England was vested in parliament, which strove to carry on or control all branches of administration either in the whole body of parliament or else through parliamentary committees, these "committees" being sometimes in fact boards or groups that included members not of either house. Numerous committees of this kind had been founded before the fall of the king; some of them and others now continued to function; and some continued after the commonwealth came to an end. There was the committee for the advance of money (1642-55), to obtain revenue; the sequestration committee, having under it committees appointed by parliament in each county, to seize the estates of supporters of the crown—this committee was not successful in its labors and was followed by the committee for compounding (1644-57), which dealt directly and more successfully with opponents or delinquents; the committee for plundered ministers (1645-53); the committee of indemnity (1649-56), to indemnify those who had acted for parliament, and to seize goods and property for parliament's service; the committee of trustees for the sale of fee-farm or crown lands (1650-60); the army committee; the navy committee; the mint committee; the revenue committee; the foreign committee; the committee for receiving the accounts of the kingdom; and others.[5] Preeminent over them all was a more important body: in the earlier part of this period the committee of both houses or the committee of both kingdoms; in the later portion, the successive councils of state, all of which were virtually committees of the parliament also. This was well understood then with respect to the council of state.

The council was subject to parliament, dependent upon parliament, assistant to it. With parliament the greater

[5] M. A. E. Green, *Cal. S. P. D., 1649-1650,* preface, pp. vii-xxxiv.

part of its business was always conducted. The members styled themselves "The Councell of State appointed by Authority of Parliament." [4] Parliament was now addressed with all the deference that the privy council had once expressed towards the king. In 1653 the council ordered that parliament be humbly moved that two troops of dragoons might be added to the establishment of Scotland, Sir Charles Wolseley being desired humbly to move parliament therein.[5] A great part of the business of the council consisted of things that parliament referred to it. Councillors dealt with this business, and reported back recommendations upon it and upon other matters of their own suggestion. The councillors were almost all of them members of parliament, in which, outside of their council activities, they were also active. Sometimes non-council members of parliament came to the council. In February 1650 it was ordered that when any members of parliament came to the council chairs should be placed for their use, and they be desired to sit down.[6] Through the clerk of parliament the council was informed of such parliamentary business as concerned it. At the beginning of its work the first council of state arranged "That an order bee sent to Mr Scobell Clerke of the Parliamt to send this Councell every day of Course all such Orders as shall passe the said House wch referre any thing to the Consideracon & Care of the Councell of State." [7] Shortly after parliament ordered: "That the Clerk of this House do, upon the Rising of this House, daily send to the Council of State such Orders of this House as concern them." [8]

In all work done by the two bodies together the council of state usually took the more active if not the more

[4] S. P. D., Interregnum, I 68, 14 January 1652-3.
[5] *Ibid.*, I 72, 1 December 1653.
[6] *Ibid.*, I 64, 27 February 1649-50.
[7] *Ibid.*, I 62, 27 February 1648-9.
[8] *C. J.*, vi. 161.

formally authoritative part. During 1649, for example, the book of the council of state is much larger than the record of parliament;[9] and during that year the council attended to much more business than parliament dealt with. For the most part parliament referred matters to the council; all execution was referred to the council; correspondence and other papers were generally given over to be prepared by the council. Such also was the case during 1650.[10] And such was the case in other years later, so that some students have declared that the record of these times must be sought in the books of the council of state rather than in parliament's journals.

Matters were constantly referred or committed to the council of state. In March 1649 it was ordered by the commons assembled in parliament that the council consider what forces were in England and Wales, what proportion of them ought to be maintained in England, what part should be sent to Scotland, how they might be paid and supplied. Thereupon a committee of nine, including Cromwell, was appointed to consider this order of parliament next day. The committee quickly reported. Within three days the council itself was ready to report to the house that it considered a force of 44,373 horse and foot to be necessary, of which 12,000 should be sent to Ireland, that for maintenance a sum of £ 120,000 per month would be needed, and it suggested how the money might be raised.[11] Shortly afterwards parliament ordered reference to the council of the question what suitable rewards should be given to the officers when they came home, not exceeding the proportions contained in a parliamentary report.[12]

[9] S. P. D., Interregnum, I 62, I 87.
[10] *Ibid.*, I 62, I 63, I 64, I 65, I 88.
[11] *Ibid.*, I 87, 2 March 1648-9; I 62, 2, 5 March 1648-9.
[12] *Ibid.*, I 87, 25 March 1649.

About the same time a scandalous and seditious book, *The Second Part of Englands New Chains Discovered*, being read in parliament, the house declared it very seditious, the authors guilty of high treason, and that proceedings should accordingly be started. It was then ordered that the matter be referred to the council of state to proclaim this declaration in all proper places, find out the authors and the printers, and proceed as might appear fitting, the general to ascertain whether any of the contrivers were of the army, deal with such of them as mutineers, then report to parliament without delay.[13] On another occasion parliament resolved that a sufficient number of ships should be constantly employed off the Irish coasts, referring to the council and to the admirals aboard to see to it that this was done.[14] Shortly after the commons called for a report from the council of state about Colonel Lilburne and others.[15] At another time parliament ordered the council to cause the demolition of Belvoir Castle, giving satisfaction therefor to the earl of Rutland not exceeding £1500.[16]

In September 1649 parliament ordered the removal of the imposition of four shillings the chaldron of coals taken at Newcastle. The council of state at once sent a letter to the governor and the mayor of Newcastle giving notice that parliament had removed this duty.[17] In April 1650 a letter from Edinburgh was read in parliament and then reference ordered to the council of state: "and that they be required by all wayes and meanes that they shall thinke fitt to prevent all invasions from abroad and to preserve the peace of this Nation from all tumults & Insurrections

[13] *Ibid.*, 27 March 1649.
[14] *Ibid.*, 11 April 1649.
[15] *Ibid.*, 10 April 1649.
[16] *Ibid.*, 8 May 1649.
[17] *Ibid.*, I 63, 11 September 1649.

whatsoever." [18] A little later a report from the parliamentary committee of the army was presented to the house, which then ordered that it be referred to the council of state and the army committee, who should presently give to parliament their opinions thereon.[19] Within a week the house resolved that additional forces should be raised, to be paid by the committee of the army in accordance with notice from the council of state.[20] In June a letter from the ambassador at the Hague was read and also a letter and some papers from the parliamentary agent in Lisbon; referred to the council of state.[21] Shortly after: "Resolved by the Parliament That Com^rs^ be sent into Ireland to take care of affaires there, to act according to such Instructions as shall be given them by the Parliament." [22] In January 1651 a letter from the lord general at Edinburgh was read in parliament, which at once referred it to the council of state for consideration and report about what should be done.[23]

A great variety of business was commended to the council. In February 1651 parliament referred to it the disposing of Worcester House for the best interest of the public service.[24] Two days later: "Ordered by the Parliament That the Councell of State doe prepare and bring in a moddell for regulateing the Offices of the Navie and Customes, as to the Officers of the Ordnance and Armoury and Stores with all convenient speed." [25] In July 1651 parliament referred it to the council to give power and instructions for preserving the peace of the commonwealth and preventing all tumults, insurrections, and invasions, to persons in the counties in England and Wales who seemed fitted for the task.[26] A month later the council

[18] S. P. D., Interregnum, I 88, 9 April 1650.
[19] *Ibid.*, 2 May 1650.
[20] *Ibid.*, 7 May 1650.
[21] *Ibid.*, 4 June 1650.
[22] *Ibid.*, 2 July 1650
[23] *Ibid.*, 7 January 1650-1.
[24] *Ibid.*, 11 February 1650-1.
[25] *Ibid.*, 13 February 1650-1.
[26] *Ibid.*, I 89, 1 July 1651.

was ordered by parliament to report the names of those to be excepted from pardon in the "qualification" for Ireland.[27] In June 1652 the council made ready to consider parliament's order about retrenchment of public expenses.[28] In July 1653 the new parliament, evidently looking upon the council as its helper in preparing parliamentary business and decisions, ordered, "That the Councell of State doe certifie to the Committee of this House appointed to consider of the businesse touching the Treasuries, what Committees the Councell have heretofore appointed to prepare some things for the ease of the House, and dispatch of the publique businesses, and the Committee have power to receive an accompt from those Com^ttees of their proceedings therein." [29] Shortly after parliament decided to establish a high court of justice for trial of offenders against the commonwealth; the council of state to bring in an act for this, with the names of the commissioners to be appointed.[30]

The council of state as constantly delivered to parliament its opinions or decisions concerning matters referred to it as well as recommendations of its own. In 1649: "That the proposalls from the Lord Generall & the Councell of Warre concerning the service for Ireland be reported to the House wth the opinion of this Councell for their Confirmation thereof." [31] On another occasion the council determined that the house should be informed that Sir John Winter was at hand, and that in the members' opinion he was a dangerous person.[32] Hereupon the house resolved that the council should order his arrest and proceed against him according to law and the former resolutions of the house.[33] At another time the council

[27] *Ibid.*, 13 August 1651.
[28] *Ibid.*, I 67, 3 June 1652.
[29] *Ibid.*, I 90, 16 July 1653.
[30] *Ibid.*, 10 August 1653.
[31] *Ibid.*, I 62, 10 April 1649.
[32] *Ibid.*, I 63, 30 August 1649.
[33] *Ibid.*, I 87, 31 August 1649.

reported to the house it would be well for direction to be given to the trustees for the sale of the late king's goods bidding them deliver the white plate to the mint for coining. Parliament gave such an order next day.[34] In 1650, after several complaints about the management of a hospital, the council made an investigation and sent in to parliament a report.[35]

In May 1650 the council of state advised parliament it was necessary for the better security of parliament and council, that Colonel Barkstead's regiment should be recruited to two thousand men, and the house was asked to consider how money might be raised for paying the recruits.[36] In June the council took part in the appointment of officials to serve the commonwealth when it moved parliament to name as commissioners for the administration of Ireland Cromwell, Ireton, Ludlow, and two others.[37] In July it reported to parliament its opinion that the presence of the late king's children might be dangerous to the public weal; parliament at once resolved that they should be sent beyond the seas, leaving it to the council to decide on the place and on the manner of transferring them thither.[38] In 1651 the council advised parliament to send one or more ambassadors to Spain.[39] Next year through a committee it prepared a bill about printing unlicensed and scandalous books, then asked parliament to consider the bill.[40] In November Sir Henry Vane was ordered to present to parliament an estimate of the charge of the land and the sea forces in service.[41]

[34] S. P. D., Interregnum, I 63, 25 September 1649; I 87, 26 September, 1649.
[35] *Ibid.*, I 64, 16 April 1650.
[36] *Ibid.*, 11 May 1650.
[37] *The Memoirs of Edmund Ludlow*, i. 249.
[38] S. P. D., Interregnum, I 88, 24, 30 July 1650.
[39] *Ibid.*, I 65, 24 February 1650-1.
[40] *Ibid.*, I 66, 5 March 1651-2, 2 April 1652; I 67, 11, 13 May, 18 October 1652.
[41] *Ibid.*, I 35, 26 November 1652.

In 1653 the council considered the appointment of a commander-in-chief in Scotland.[42] The making of appointments was with the parliament's consent. In July Colonel Sydenham presented from the council of state the names of two persons proposed to be judges of the admiralty: "Resolved That it be referred back to the Councell of State and that they report it tomorrow morning." [43] In December the council humbly moved parliament to appoint Major General Desborough and Vice Admiral Penn to be two of the generals of the fleet, to be joined in commission with General Blake and General Monk.[44] On one occasion the council asked parliament speedily to provide out of such treasury as they should think fit £10,000 for the council's use in some matters of pressing need. At once parliament resolved that the sum should be charged upon Goldsmith's Hall to be paid to such persons as the council should appoint.[45]

As in former times the privy council, working with the king, had taken considerable part in legislation—examining the terms of bills before they were passed, or drafting bills which it was desired parliament should pass—so now did the council of state. And because the council of state, virtually a committee of the parliament, was closer to parliament than the king's privy council had been, so it took greater part in making the ordinances that were now passed. It drew up bills to be passed, and revised or considered bills commended to its attention.

In August 1649 parliament referred it to the council of state to consider the most convenient way for the future of sending about the acts and declarations or or-

[43] *Ibid.*, I 41, 7 April 1653.
[44] *Ibid.*, I 72, 2 December 1653.
[45] *Ibid.*, I 90, 1 October 1653.
[46] *Ibid.*, I 90, 22 July 1653.

ders of parliament into the several counties.[46] In November the council had ready to be reported to parliament the draft of a bill for communicating the commands of parliament and of the council to all the counties in pursuance of parliament's order.[47] Shortly after there was reported in parliament from the council the draft of a bill empowering the council to administer an oath to the jury for making two standard pieces of gold and silver.[48] In December 1651 was brought into the council and read a bill for removing obstructions in the sale of fee-farm rents. It was referred to several of the members to make such amendments as they thought fit.[49] In 1652 parliament ordered " That the Act for Printing be reported to the Councell to morrow in the afternoone." [50] At a meeting of the council in January 1653 it was ordered: " That the Lord Com^r Whitelock and Lord Com^r Lisle bee desired to hasten to the Parlam^t the report of an Act for setling the Trinity house." [51] Next day a time was appointed for reading the drafts of several bills that were to be reported to parliament later on.[52]

The old orders or declarations of the privy council had been issued with the king's sanction. Declarations of the council of state were issued on the order or with the sanction of the house:

> The Parlament haveing lately entrusted this Councell to take Care that the good people of England Scotland & Ireland be protected in their peaceable Assemblyes for the Worship of God; Not intending thereby any sufferance, protection or Countenance to any popish or Idolatrous worship. It is hereby declared in pursuance of the said Trust that this Councell will

[46] *C. J.*, vi. 280. [47] S. P. D., Interregnum, I 63, 8 November 1649.
[48] *C. J.*, vi. 323. [49] S. P. D., Interregnum, I 66, 29 December 1651.
[50] *Ibid.*, I 67, 11 May 1652. [51] *Ibid.*, I 68, 25 January 1652-3.
[52] *Ibid.*, 26 January 1652-3.

soe protect all the good people of these Nations. And that noe disturbance may be offered to any such, in their peaceable Assemblyes for the worship of God, it is expected and required of all Ministers of Justice to proceed against offenders herein, as disturbers of the publiq[u] peace, and of all other persons whatsoever to take notice hereof.[53]

The council of state assisted parliament in the management of taxation, and in procuring and expending the revenue. In 1649 Sir Henry Vane reported in parliament the council's opinion that half of the £20,000 fine set upon the counties of South Wales for their delinquency should be used in providing for the fleet; and parliament ordered the committee of the army to issue a warrant for the payment of such a sum for the use of the navy.[54] Shortly after, the council asked that the treasurer of the army, the commissioners of the excise, the treasurer of the deans and chapter lands, and the treasurers at Goldsmiths' Hall, be asked to confer with a committee of the council about advancing upon the credit of their receipts £20,000 that was needed.[55] The council of state, like the privy council of James I and of Charles I, had often to direct its energies to raising money for government needs. In August 1649 the council ordered a letter written to the lord mayor and the common council of London to make them bring in more quickly the assessments of the last three months, and bid them in the meantime advance weekly the sums charged upon them to prevent free quarter, which would otherwise be taken.[56] In August a committee was appointed to consider bringing the public revenue and other available moneys into one treasury.[57]

[53] *Ibid.*, I 72, 12 November 1653.
[54] *Ibid.*, i, 30 March 1649.
[55] *Ibid.*, I 62, 23 July 1649.
[56] *Ibid.*, 4 August 1649.
[57] *Ibid.*, 17 August 1649.

In October it was ordered: "That the State of the Treasure and of the next yeares charge wch was read yesternight be reported to the House by Sr Henry Vane." And "That the Estimate of what hath beene layd out for Ireland be alsoe offered to the House by Sr Henry Vane if it shall be found necessary." A long report and a statement concerning the revenue from the excise and other sources with an estimate for the next year was to be presented.[58] In 1650 the council ordered the commissioners at Goldsmiths' Hall and both of the treasurers to attend next day. At the same time it dispatched a letter to Alderman Alleyn bidding him have ready all of the sum of £50,000 to be provided for the army by the twentieth of the month.[59]

In 1651 it was

> Ordered by the Parlament, That it bee referred to the Councell of State to consider what Ammunition and other things are necessary to bee provided for the next Summers Fleet, and what Treasury is open out of which the same may be supplyed together with a full and Cleare accompt of the State of the whole Treasury of the Commonwealth, as well for defraying the charge of the Army as Navy and other publique businesse, and to report it to the House on Tuesday next.[60]

About this time the council wrote to the treasurers at war, about some money in their hands lent them formerly by the council: now there was occasion to use it; hence the treasurers were to pay it forthwith to the council's secretary, to be disposed of as the council should direct.[61]

There was consideration of general financial policy as well as of financial arrangements and details. In 1652 the council resolved to consider at an early meeting the whole

[58] S. P. D., Interregnum, I 63, 23 October 1649.
[59] *Ibid.*, I 64, 15 May 1650.
[60] *Ibid.*, I 89, 26 February 1650-1.
[61] *Ibid.*, I 96, 8 March 1650-1.

question of keeping money in the realm and of encouraging the importation of bullion, and also a report from the committee of the mint about coinage.[62] Next year the council referred to a committee of two consideration of the whole state of the excise, the committee to send for and confer with persons thought fit for that purpose, then report what seemed best to be done.[63] About the same time the council referred it to a committee not composed of members of the council, "to consider how the Treasuries of this Cōmonwealth may be mañaged to the best advantage thereof", then report to the council of state.[64] Each of the various councils of state that held for a short time during this period seems to have thought necessary a general consideration of financial policy and finance. In October the last council resolved that parliament should be humbly moved to appoint a committee to examine the present state of the receipt of the public revenue, and give particular directions for management of it as parliament should think fit.[65]

Parliament strove to hold the council of state strictly accountable with respect to all expenditures of public money. Among the instructions given to the seventh council:[66]

> You are to cause all warrants whereby you charge the Treasure of this commonwealth upon the respective Treasuries thereof in pursuance of the Instructions already given you or to bee given by Parlament to be fairly ingrossed in a booke which book together with an abstract of the heads of the disbursements made by vertue of such warrants, you are to deliver into the

[62] *Ibid.*, I 67, 12 May 1652.
[63] *Ibid.*, xxxvi, 4 May 1653.
[64] *Ibid.*, I 69, 14 May 1653.
[65] *Ibid.*, I 71, 7 October 1653.
[66] *Ibid.*, I 90, 9 July 1653.

> Parlament upon the first day of December one thousand six hundred fiftie and three, and as to that head of disbursements which concerne incidents for the manageing of intelligence; You are to cause the same to be stated in the grosse summe to bee allowed by your selves for the full discharge thereof unto all persons concerned in the issueing or receiving the same, And all warrants granted by you for the issueing of moneis or imprisonment of any person in pursuance of your Instructions shall bee signed by the hands of five or more of you.

The council, as the principal executive and administrative body, took much part in the management of all matters relating to the army and to the navy, though such matters were not only supervised by parliament but by parliament committees. In August 1649 the council, removing secrecy preserved theretofore, resolved to report to parliament a narrative of the treaty made by one of the commanders, Colonel Monk, in Ireland, and ordered him to prepare for the council an account of why he had made the convention, and then appear before parliament. It resolved that the treaty was wholly against the judgment of the council, and that this should be made known to Colonel Monk.[67] On the same day the council requested the lord general to order that the soldiers in Kent "may use all Civilityes & pay Quarters being there quartered in Inns and Alehouses."[68] Shortly after the council sent a letter to Cromwell to inform him of what they knew about trouble at Oxford, enclosing a letter, and asking him to give special care to the matter.[69] Sometimes the council endeavored to deal with political elements in the situation, as when it appointed a com-

[67] S. P. D., Interregnum, I 62, 6 August 1649. [68] *Ibid.*
[69] *Ibid.*, I 63, 8 September 1649.

mittee to draw up a declaration to the soldiery affirming their danger in suffering themselves to be misled and drawn into engagements against parliament.[70]

Both because of Cromwell's position in the council and because of his great power outside it, the several councils of state were much in communication with him. In February 1650 the council ordered a letter to the lord general, desiring to speak with him about business of concernment the next afternoon. Apparently, he was not present next day.[71] The council took care to address him with deference and care.

> That a letter be written to the Lord Generall to lett his Lordship know that if he hath occasion to draw the Troup which is at present in the Isle of Wight from thence to any other service, the Councell leaves itt to his Lordship to doe therein as he shall thinke fitt in case some other troup bee provided to supply the duty of that which is to come away from thence.[72]

In 1652 the council wrote asking him to order one or two troops of horse, as he might think well, to be sent at once to the Isle of Wight, to stay there while the Dutch fleet remained off the coast.[73]

During the military operations of 1650 and 1651 there was great activity in the council of state. Numerous detailed orders were issued for providing arms and for disposing and moving troops. In July 1650 the councillors reported to parliament that they had assembled an army and ordered it to march northward, since they could prevent an invasion of England only by sending an army into Scotland; that they had prepared a declaration, of which a draft would be reported to parliament shortly; that three thousand trench tents ought to be sent to

[70] *Ibid.*
[71] *Ibid.*, I 64, 19 February 1649-50.
[72] *Ibid.*, 14 March 1649-50.
[73] *Ibid.*, I 68, 11 December 1652.

Berwick immediately for the army's use; that ministers should be appointed to go with the marching army; that magazines of wheat and of oats should be provided at Berwick and at Newcastle at once; that a commissary for victuals should be appointed for the marching army; together with many other recommendations.[74] A little later the council reported that the cannon were now ready to be sent by sea to the army.[75]

When Charles II and the Scots invaded England during the campaign that culminated in the Battle of Worcester, there was great activity in the council of state: numerous commands, directions, orders, for providing troops and arms and other things.[76] At the same time such lesser things as the defence of the Tower were considered.[77] One of the members has testified concerning the work of the council at this time: [78]

> The Councel of State, during this action, had almost hourly Messengers going out and returning from the several Forces, carrying advice and directions to them, and bringing to the Councel an account of their motions and designs, and of the Enemies motions.
>
> It could hardly be that any affair of this nature could be managed with more Diligence, Courage, and Prudence, than this was, nor peradventure was there ever so great a Body of men so well Armed, and Provided, got together in so short a time, as were now raised, and sent away, to joyn with the rest of the Forces attending the King.

There was as constant activity and interest in respect of naval affairs. During this time there was a navy com-

[74] S. P. D., Interregnum, I 64, 20 July 1650.
[75] *Ibid.*, I 9, 15 August 1650.
[76] *Ibid.*, I 21, 12, 13, 14, 15, 16, 18 August 1651, and *passim*.
[77] *Ibid.*, xvi, 16 August 1651.
[78] Whitelock, *Memorials*, p. 477.

mittee of parliament, and parliament also concerned itself with the navy. In February 1649 the office of lord admiral was taken from the earl of Warwick, and parliament resolved "That the power of the Admiraltie be setled in the Counsell of State." [79] The council now commended naval affairs mostly to a standing committee of the council for naval affairs.[80] And to a considerable extent it is in the work of this committee that naval matters for this time must be studied. In February also Colonels Popham, Deane, and Blake were made admirals and generals of the fleet, or "Com^rs for ordring & Comanding of the Fleete." [81]

The council constantly conferred with the commissioners of the fleet or directed communications to them, referred matters to the admiralty committee, gave numerous orders and directions, and made recommendations or reports to parliament. In March 1649 the commissioners of the navy were asked to appear before the council on the following Monday morning, to confer about particular matters.[82] In July the council wrote to Colonel Popham directing him to send to Milford Haven the ships that were then in the Downs.[83] Shortly after it was giving directions to prepare gunners' stores and other requisites for furnishing ships for the commonwealth's service.[84] From the admirals or commissioners aboard their ships the council had letters and reports. On one occasion Colonel Blake wrote from his ship in Plymouth Sound, his letter being referred at once to the admiralty committee of the council.[85]

[79] S. P. D., Interregnum, I 87, 22 February 1648-9.
[80] M. A. E. Green, *Cal. S. P. D., 1649-1650*, preface, pp. xxi-xxiii.
[81] S. P. D., Interregnum, I 123, 24 February 1648-9.
[82] *Ibid.*, I 62, 10 March 1648-9. [83] *Ibid.*, 23 July 1649.
[84] *Ibid.*, I 123, 17 August 1649.
[85] *Ibid.*, I 20, 30 June 1651.

The council undertook to supervise or assist the commissioners, the victualler, and others in furnishing ships and keeping them supplied. In 1652 the council ordered "That the Comittee of the Admiraltye doe give an Acct once a day to the Councell of the State of the Victuallinge of the Fleete." [86] In September the navy victuallers were ordered to provide provisions for 16,000 men for the next summer's guard.[87] In December the council desired the commissioners and the victuallers to attend.[88] In 1653 it was ordered "That the Councell doe take into Consideracon tomorrow in the afternoone by what wayes and meanes the ffleet of this Comonwealth may be furnished with Seamen." [89]

The council directed the movements of ships and conferred with the principal commanders. In June 1652 they ordered the "Ship Gray Hound" to return to the Downs and receive General Blake's directions.[90] About this very time secret instructions went from the council of state to Blake. The council declared that it had considered putting the fleet into a posture suitable for the present state of affairs, and so had thought well to dispatch additional instructions. The commander would receive them by Colonel Thompson, who came to confer with him about speedy and effectual execution of instructions, after which the messengers would return and report either to the council or to parliament.[91] In May 1653 the council sent a letter to the generals of the fleet.[92] In the autumn the council was debating dispatch of an expedition to the East Indies.[93]

Various matters were dealt with. In 1651, the fourth council of state had hardly begun to sit when it resolved

[86] S. P. D., Interregnum, I 67, 22 May 1652.
[87] *Ibid.*, I 33, 17 September 1652.
[88] *Ibid.*, I 68, 2 December 1652.
[89] *Ibid.*, I 71, 13 October 1653.
[90] *Ibid.*, I 67, 7 June 1652.
[91] *Ibid.*, xxiv, 10 June 1652.
[92] *Ibid.*, I 69, 11 May 1653.
[93] *Ibid.*, I 70, 13 September 1653.

to ask parliament to settle admiralty administration, since many urgent affairs required that something should be done soon therein.[94] Shortly afterward the council issued a warrant to the admiralty judges for granting to a certain one a letter of marque.[95] On another occasion it arranged for examination of a pirate.[96] At another time it ordered the commissioners of the navy to pay a certain one a sum of money.[97]

As the privy council had done, so did the councils of state deal with numerous local affairs. Many communications and directions were transmitted to local officials, who in turn sent the council complaints or reports. In 1649 the council of state, still meeting at Derby House, informed the commissioners of the customs that because of maladministration by customs officials great quantities of corn had been exported to the rebels in Ireland; let this be looked into; let no corn be exported without license of parliament or of the council of state.[98] In June the council wrote to the sheriff and the justices of peace of Staffordshire that much false coin had been made in their county; let them try to arrest and prosecute the offenders.[99] Almost at the same time it directed the bailiffs of Great Yarmouth to remove certain pirates to Norwich Castle.[100] In August it bade the committee of Hants see to it that so much of the castle of Winchester was demolished as an engineer might declare necessary to make it untenable; let this be done within a month; and let account be sent to the council.[101] A month later Colonel Temple was ordered to cause the demolition of a bridge belonging to the tav-

[94] *Ibid.*, I 66, 3 December 1651.
[95] *Ibid.*, 25 December 1651.
[96] *Ibid.*, I 67, 19 May 1652.
[97] *Ibid.*, xxxii, 18 January 1652-3.
[98] *Ibid.*, I 94, 12 March 1648-9.
[99] *Ibid.*, 16 June 1649.
[100] *Ibid.*, I 123, 21 June 1649.
[101] *Ibid.*, I 63, 24 August 1649.

ern of a certain one in Gravesend, and also to suppress the tavern.[102] In October 1651 the council of state learning that a certain Peter Cole had a copy of a sermon that would, if printed, be advantageous to the state, but which he would neither print himself nor give to those who would, ordered the committee for examinations to send for him and examine him about why he held back this sermon.[103] In May 1653 the council resolved that the carrying of all inland letters, public as well as private, should be managed by such and such only, as the state or others authorized by the state should appoint.[104] In November the council recommended to the justices of the peace for Southwark the condition of Jane Cox, a widow; that they consider at their next monthly meeting or quarter session assisting her as an object of charity.[105]

In doing its work the council of state received many petitions, and it issued a great number of warrants, orders, directions, and passes. As had formerly been the case with petitions to the king, the council was given petitions sent in to parliament; and it referred to parliament petitions directed to itself. In July 1649 the council of state replied to Sir Francis Willoughby that the council was not competent to act in respect of his petition, but a week later it decided to commend to parliament his request that something might be done for his just relief.[106] In August 1653 a petition from divers well affected persons of Jersey was reported in parliament. The house ordered it referred to the council of state, to consider and report what was fit to be done.[107]

Apparently there were not so many petitions as had been sent to the king and to the privy council. As time

[102] S. P. D., Interregnum, I 63, 13 September 1649.
[103] *Ibid.*, I 23, 27 October 1651.
[104] *Ibid.*, I 69, 7 May 1653.
[105] *Ibid.*, I 72, 18 November 1653.
[106] *Ibid.*, I 62, 13, 19 July 1649.
[107] *Ibid.*, I 90, 22 August 1653.

went on, however, and perhaps as the work of the council of state was better known and better understood, the number increased. In 1652 the council ordered "That it be returned in answeare to the Petition of Peter Bergen That the matter of his Petition is not cognoscible before the Councell, but that the Lawe is open by wch he may seeke his Remedye."[108] In December the council made the rule "That all petitions for private men of Warre bee read publiquely at the Councell."[109] A few months later was made the regulation that all petitions presented to the council should be delivered to the council's secretary, and by him be brought before the council.[110] In most cases they were referred for consideration to committees of the council. It was doubtless a sign of the enlarging amount of this business that in October 1653 the council ordained that no petition might be brought before the council to be read unless first approved by a committee of the council, to consist of any three or more of the members—an early example of the committee of the whole council—such committee meeting first in the council chamber, before the assembling of a quorum of the council, to read all petitions addressed to the council, laying aside what they judged not worthy or proper, and presenting with their opinions those found fit for the council's attention, the lord president to have care that no member infringed this order.[111] A large part of all of the labor of the last council of state was concerned with petitions.[112]

The council of state, like the privy council, issued passes to those allowed to leave England. In August 1649 it ordered that a pass be granted to a certain William Pike

[108] *Ibid.*, I 67, 4 June 1652.
[109] *Ibid.*, I 68, 3 December 1652.
[110] *Ibid.*, I 69, 13 May 1653.
[111] *Ibid.*, I 71, 14 October 1653.
[112] *Ibid.*, I 72, November and December 1653.

to go into France.[113] Somewhat later one was ordered for Mr. William Hicks to travel into parts beyond the seas.[114] In 1653 the lord general was authorized to give a pass to a certain one to go into the Low Countries.[115] On the other hand the council caused persons to be sent out of the realm. In 1652: "The Councell being acquainted that the Lady of Ormond was come over into England doe thereupon thinke fitt and order That the said Lady Ormond doe depart out of the Territories of this Comonwealth within the Space of tenn dayes." [116]

A great variety of warrants and orders was issued. In April 1649 the council commanded Major General Lambert to send a strong convoy to Lancaster Castle to bring two prisoners to Pontefract, and proceed to a speedy trial.[117] That year the council ordered £ 1000 to be paid to an inhabitant of Bristol, and that £ 10 should be paid to another who had brought news of the capture of certain malcontents.[118] On another occasion it directed some of the judges who were out of town to attend to the service of the commonwealth by trying in accordance with a recent act of parliament certain prominent offenders.[119]

Warrants were constantly issued. At a meeting of the council in 1650; a warrant to apprehend five persons for holding correspondence with the enemy; a warrant to the marshal of the admiralty to stay the bark *Odie* bound for Colchester; a warrant to the captains of the forts at Gravesend and Tilbury to assist in executing these warrants; a warrant to arrest alleged coiners and take them before the nearest justice of the peace; another to the ordnance officers at the Tower, to bargain with certain

[113] S. P. D., Interregnum, I 63, 20 August 1649.
[114] *Ibid.*, I 65, 24 February 1650-1.
[115] *Ibid.*, I 71, 4 October 1653.
[116] *Ibid.*, I 67, 25 May 1652.
[117] *Ibid.*, I 94, 10 April 1649
[118] *Ibid.*, I 62, 5 May 1649.
[119] *Ibid.*, I 63, 19 September 1649.

ones about making some damaged gunpowder serviceable for the state, or exchanging it at suitable rates.[120]

Some of the orders of the council had to do with putting in prison or releasing therefrom, for the council of state, like the privy council before, had the power to order arrest and to commit to custody. In August 1649, at a council of twelve, it was ordered that three officers be committed prisoners to Newgate for levying war against the commonwealth of England.[121] In January 1653 five members of the council signed a warrant: [122]

> These are to will and require you herewith to receive into your Custodie the body of Captaine Zachary Browne and him you shall safely keep prisoner in your prison of the Fleet in Order to his tryall for his deserting of the Ship Hercules imployed in the service of the State.

In September the council ordered to be issued a warrant for arresting certain ones and bringing them before the council to answer about matters to which objection might be made on the commonwealth's behalf.[123]

On occasion prisoners were released. In 1652 the council ordered that Richard Joyner, then in the Fleet, should be discharged, upon subscribing the engagement and giving his bond for £ 200 that he would do nothing harmful to the commonwealth.[124] Not long after an order was issued that Lord Sinclair should be set at liberty for a month.[125] Sometimes charges against defendants were referred to courts of law. In 1650 the council of state ordered that the articles exhibited at the council against one, Colonel Boothbie, be referred to the judges of the assize to proceed therein according to the law.[126]

[120] *Ibid.*, 23 January 1649-50.
[121] *Ibid.*, 20 August 1649.
[122] *Ibid.*, I 68, 3 January 1652-3.
[123] *Ibid.*, I 71, 30 September 1653.
[124] *Ibid.*, I 66, 5 February 1651-2.
[125] *Ibid.*, I 31, 18 August 1652.
[126] *Ibid.*, I 64, 11 March 1649-50.

Like the privy council, the council of state acted in many matters relating to Ireland and the outlying dominions and plantations, while it dealt also with many things that had to do with Scotland. Shortly after it began its work the first council of state determined that Mondays and Fridays should be the days appointed for considering affairs of Ireland.[127] In 1652 Colonel Mayo obtained permission to transport from Ireland, for the service of the king of Spain, three thousand of such Irishmen as had been in arms against parliament, provided he gave security, approved by the committee appointed to dispose of Irish soldiers, that none of them would return to Ireland or any of the territories of the commonwealth, or be used to the prejudice thereof.[128] In September 1651 parliament referred it to the council of state to consider of fit persons to be sent into Scotland as commissioners, the proper number, and instructions to be given them for managing civil government and settling affairs there for the commonwealth's best advantage.[129] The council dealt with numerous things relating to the plantations, especially Virginia.[130] It referred many plantation matters to the council of trade, and then heard the council's reports.[131] In November 1653 the council gave order, at a time when there was no committee for trade or for plantations, that the council's committee for Irish and Scottish affairs should receive the account of the governor of Newfoundland, examine it, and report upon it to the council.[132]

Like the privy council under the king, the council of state dealt with foreign relations and diplomacy, but since it went far to take the place of both king and council in

[127] S. P. D., Interregnum, I 62, 27 February 1648-9.
[128] *Ibid.*, I 30, 8 July 1652.
[129] *Ibid.*, I 89, 26 September 1651.
[130] For example, *ibid.*, I 64, 26 February 1649-50; I 67, 12 May 1652.
[131] *Ibid.*, I 11, 7 October 1650; xvi. 138.
[132] *Ibid.*, I 72, 30 November 1653.

former times, it had much more to do with foreign matters than the privy council had had. As had formerly been the case, much business of this sort was dealt with by the council's committee of foreign affairs, and that can be considered better in another connection. It should be noted, however, that in the time of Charles I such procedure had come about because the king, who jealously guarded conduct of foreign affairs within his own jurisdiction, wished to communicate them generally not to all of his council but to a select group of his favorite and confidential councillors only. Now it resulted from the council itself delegating a portion of its task to a part of itself.

In 1649, shortly after it began work, the first council of state appointed a committee of eight "to Consider of the dignity and precedence this Nation is to hold in their Embassies to other Nations Kingdomes and Republiques, and other fitting formalityes in all such addresses." They were to send for papers, and for persons, including John Selden, who might be of assistance.[133] A year later, subject to the approval of parliament, was adopted for use in foreign negotiation "Reipublicæ Anglicanæ Ordines" as the form to be subscribed to communications to governments abroad.[134]

As with other kinds of business, so with foreign affairs, parliament also handled many foreign matters, often referring them to the consideration of the council of state for determination or opinion and report. In January 1651 parliament ordered that ambassadors from foreign governments should be admitted to public audience in parliament, that ministers below the quality of ambassadors should have audience of a committee of parliament, and that the late lords' house should be the place where the

[133] *Ibid.*, I 62, 23 February 1648-9.
[134] *Ibid.*, I 63, 26 January 1649-50.

committee's audience should be given.[135] In the spring parliament referred it to the council to instruct the commonwealth's ambassadors then in Holland to demand of the states general an answer concerning why the fleet under Van Tromp had set forth, and if they found in this any prejudice to the commonwealth to demand that his commission be revoked. Parliament also ordered the council in respect of this matter so to use parliament's ships that the commonwealth should suffer no harm.[136]

The council of state handled a great variety of foreign affairs. In April 1649 it ordered instructions for an answer to the Spanish ambassador about certain Irishmen captured at sea—most of them destined to be transported to the plantations: the council could not admit the ambassador's intervention, "it being (besides other important reasons) a private transaction of a Rebell and agt the honour and Soveraignty of the comon wealth of England."[137] In December 1651 the council appointed a day for an audience to the lords ambassadors from the states general of the United Provinces.[138] Two years later it was ordered: "That Audience be given at the Councell to the Deputyes from the Vnited Provinces at 5. of the Clock this afternoone, And Sr Oliuer Fleming Mr of the Ceremonies is to give them notice hereof, and to bring them to audience accordingly."[139] Shortly after, audience was given to the secretary from Venice.[140] In 1653 the council ordered that a letter from Bremen should be translated into English then brought before the council again.[141] On another occasion a day was appointed for debate about business with the Dutch.[142] When Whitelock went as

[135] S. P. D., Interregnum, I 88, 1 January 1650-1.
[136] *Ibid.*, I 89, 1 April 1651.
[137] *Ibid.*, I 62, 17 April 1649.
[138] *Ibid.*, I 66, 30 December 1651.
[139] *Ibid.*, I 69, 22 June 1653.
[140] *Ibid.*, I 71, 28 September 1653.
[141] *Ibid.*, I 69, 12 May 1651.
[142] *Ibid.*, 20 June 1653.

ambassador extraordinary to Sweden that year it was ordered "That Care be taken by the Councell, that the Lo: Am: Whitelock may be furnished with fforeigne Intelligence in his absence."[143] Much, however, was referred to the committee for foreign affairs, and as time went on the foreign business before the council was almost entirely referred to this committee. In 1652 a paper from the Spanish ambassador about transporting some Irish foot soldiers was referred to the committee for foreign affairs for speedy report to the council.[144] The like was done with a paper delivered to the council by the minister from France.[145] In September 1653 the council ordered "That the papers given into the Councell this day from the Venetian Secretʸ bee referred to the Consideracon of the Cōmittee for fforreigne Affaires."[146]

[143] *Ibid.*, I 71, 12 October 1653.
[144] *Ibid.*, I 67, 7 June 1652.
[145] *Ibid.*, I 68, 10 January 1652-3.
[146] *Ibid.*, I 71, 29 September 1653.

CHAPTER XII

THE COUNCILS OF THE PROTECTORATE

When on 20 April, 1653, Cromwell turned the Rump Parliament out of doors, and forcibly though not legally dissolved it, the fifth council of state was also dissolved. Immediately a sixth council, a provisional body, composed of Cromwell and his leading military supporters, was established. The provisional council of state invited congregational ministers in each county to suggest nominees for a new parliamentary assembly. From the lists thus submitted selections were made by the council and then additions were made by the council. The Nominated or Barebones Parliament, thus formed, was assembled in July. The sixth council of state at once resigned the government to this body, whereupon the seventh council of state was immediately constituted by parliament, which chose again the members of the council preceding and added to them new members. In November an eighth council of state was chosen by parliament to continue for six months. The Nominated Parliament, intended by those who had made it to be a constituent assembly, acted as a parliament or legislative body, and proceeded to make reforms agreeable neither to Cromwell and his supporters nor to the great majority of people outside. So, between Cromwell and his followers, who dominated the council of state, and a majority of the parliament disagreement rapidly increased.

Many were now tired of a constitutional system in which parliament wielded power presumably supreme and complete. This, it was believed, tended to a tyranny

as bad as the king's had been, and at the same time failed to produce strong and capable rule. Some of the officers, like Lambert, greatly wished a strong government which they thought could be erected if Cromwell were king. Cromwell appears to have refused this. He desired to avoid violent breach with the parliament which had been so largely set up by himself. Meanwhile, however, the military leaders had been drawing up a constitution, the Instrument of Government, in which they designed to reduce parliament's powers and have a strong executive officer with a strong council assistant. The supporters of this scheme resolved, without the coöperation of Cromwell, to bring the Nominated Parliament to an end, and then, the thing being already accomplished, offer the rule of England to Cromwell under the new system which they had constructed.

11 December, Sunday, the minority in parliament who favored this scheme held a secret meeting at which the execution of their plan was resolved on. The next morning these adherents gathered in the house before their opponents appeared. Having thus a majority, Sir Charles Wolseley, member of the council of state, moved "That the Sitting of this Parliament any longer as now constituted will not be for the good of the Commonwealth, and that therefore it is requisite to deliver up unto the Lord General Cromwell the Powers they have received from him." [1] Colonel Sydenham, another member of the council, seconded this motion. Debate began, and there was danger that the motion would be lost when other members of parliament arrived. Accordingly, the speaker, not waiting to put the question, left the house with those favorable to the motion, after which the soldiers put the others out. Most of the others afterwards agreed, so

[1] *C. J.*, vii. 363.

that it was not long before a majority of parliament assented to dissolution, to the setting up of another government, and to putting authority into Cromwell's hands.[2] Cromwell, apprised of what had been done, and realizing now that he was, as after the expulsion of the Rump, dictator with supreme power, agreed in principle to accept the proposed constitution. 14 and 15 December, when certain amendments were made, the Instrument of Government was finally accepted by Cromwell, and a new system thus put into being.

A great change was made now, which consisted essentially in the limitation of parliament's authority and the creation of a strong executive power. During the period of the civil wars and opposition to the king, there had been, as was afterwards the case in the American states when they rebelled, as they said, against the tyranny of the English king, great aversion from royal prerogative and power. This was accompanied by dislike of the power and greatness of the king's privy council. In 1642, in the Nineteen Propositions drawn up by Pym and sent by parliament to Charles I at York, parliament had demanded that the king should act only by the advice of the majority of his council, and that the members of that council and other great officials should be chosen only with parliament's assent.[3] Such conditions were demanded also in the Uxbridge Propositions (1645) and the Newcastle Propositions (1646).[4] Similar proposals were incorporated in the Heads of the Proposals (1647), according to which there was to be a council of state, with some of its powers subject to parliament's assent, its members holding for a limited term and during good behavior:[5]

[2] Gardiner, *History of the Commonwealth and Protectorate*, ii. 277-81.
[3] *L. J.*, v. 98.
[4] *Ibid.*, vii. 57; Rushworth, *Historical Collections*, vi. 316.
[5] Rushworth, vii. 733 [misprinted as 233].

That there be a Council of State with Power to superintend and direct the several and particular Powers of the *Militia* last mention'd for the Peace and Safety of this Kingdom, and of *Ireland*.

That the same Council may have power as the King's Privy-Council, for and in all foreign Negotiations; provided that the making of War or Peace with any other Kingdom or State shall not be without the Advice and Consent of Parliament.

That the said Power of the Council of State be put into the Hands of trusty and able Persons now to be agreed on, and the same Persons to continue in that Power (*si bene se gesserint*) for a certain Term not exceeding Seven Years.

The first members were to be appointed by agreement: for later members the mode of choice was not stated, so that appointment might have reverted to the king.

The revolution had gathered intensity and brought complete downfall of the king and his council, the utter triumph of parliament, and presently execution of the king, abolition of kingship, and establishment of a republic. A new constitution now proposed, The Agreement of the People—based on the Heads of the Proposals—was brought forward, and while never adopted, many of its recommendations were followed by the Rump Parliament which took over the government of the state. The Agreement of the People proposed a parliament elected for two years, which should have supreme power; that this parliament should within twenty days after its first meeting appoint a council of state for the managing of public affairs, to hold until the tenth day after the meeting of the parliament succeeding, unless the next parliament put an end to it sooner; and that parliament was to issue instructions and prescribe limitations for the council.[6]

[6] *Parliamentary History*, iii. 1274.

Such, in effect, was the scheme during the commonwealth time. The Rump did not, as the Agreement proposed, dissolve itself, so that there were no biennial parliaments to choose councils of state to hold for two years. There were, however, appointed by the Rump, by the officers, and by the Nominated Parliament, eight councils of state, holding successively for periods of a year or less, each bound by regulations made in parliament, and dependent upon parliament's sanction. The council of state was, indeed, less subject to parliament in that it was essentially a committee of the foremost members of parliament, to whom parliament willingly commended a great part of its work; but this is only to say that the government of England then in all of its branches was vested in parliament or committees thereof.

From this system there was now a great reaction in England, as there was in the United States after 1787 from the incompetent government of the weak congress of the articles of confederation. By the Instrument of Government legislative power was to be shared by the principal executive authority—the protector—and parliament, as before 1642 it had been by parliament and king. Executive and administrative powers were vested in a strong executive over whom parliament strove to have more control than the parliament of other days had possessed over Elizabeth or Charles I. The protector's authority was to be mostly controlled, however, by erecting a strong council of state.[7]

By the Instrument of Government there was to be a council of fifteen, which might be increased to twenty-one at the desire of the lord protector and the major part of the council. Vacancies were to be filled by a complicated process of nomination by parliament, elimination by the

[7] Gardiner, *History of the Commonwealth and Protectorate*, ii. 287.

majority of the council, and selection by the protector. The members were to hold for life, unless removed on charge of corruption or miscarriage in trust by a commission appointed by parliament and by the council, and working with the lord chancellor, the lord keeper, or commissioners of the great seal.[8]

This council was intended to be not merely far more powerful than the weak councils of state in the period preceding, but more powerful than the privy council of the king had been. Privy councillors had been appointed and removed altogether at the will of the king. Members of the protectorate council of state were, after the fifteen first named, to be chosen by the protector only from lists furnished by parliament and scrutinized by the council itself; and these members once appointed were nearly irremovable, and not removable by the lord protector. In the older days the king had acted with the advice of his privy council if he desired to accept their advice; but he might refuse to accept it and then act as he thought best, and he was tending more and more to act with the advice of a small part of his council, from which practice the cabinet council was emerging. By the Instrument of Government the more important part of administration was vested in the protector acting with the approval of parliament or with advice and consent of the major part of his council. Writs, processes, commissions, patents, grants, and other things similar were to run in the name of the lord protector; magistracies and honors were to be from him alone; and he was to have the power of pardon, except in cases of murder and of treason. But it was by the advice and consent of the major part of his council that the protector was to manage foreign affairs, and make war and peace—all of which during the older

[8] *Parliamentary History*, iii. 1423; Whitelock, *Memorials*, p. 556.

era had been, in theory, at all events, within the undisputed prerogative of the crown; the principal officers, such as the chancellor, keeper, or commissioners of the great seal, the treasurer, the admiral, the chief governors of Ireland or of Scotland, and the chief justices of both the benches—all of them formerly appointed by the crown—were to be chosen with approval of parliament, and in the intervals of parliament's sessions, with approbation of the council, to be approved afterwards by parliament; the disposal of the militia and of the military and naval forces—formerly altogether in the crown—was now to be in the lord protector with the consent of parliament, but in the intervals of parliament with the advice and consent of the major part of the council. According as events followed, the principal check on the executive official was the power of the council of state.[9]

16 December 1653 thirteen members of the protector's council were chosen:[10]

Henry Lawrence
Viscount Lisle
Major General Lambert
Major General Desborough
Major General Skippon
Colonel Jones
Colonel Sydenham
Sir Gilbert Pickering
Sir Charles Wolseley
Sir Anthony Ashley Cooper
Mr. Rouse
Mr. Strickland
Mr. Major

To them was added almost immediately Col. Montagu,[11]

[9] *Parliamentary History*, iii. 1417; Whitelock, *Memorials*, p. 552.
[10] S. P. D., Interregnum, xlii, 16 December 1653.
[11] *Ibid.*, I 75, 19 December 1653.

while Col. Mackworth was admitted in February 1654,[12] Col. Nathaniel Fiennes in April,[13] and the earl of Mulgrave in June.[14] Other members were added still later, but vacancies presently arose. Colonel Mackworth died in December 1654, and Major and Sir Anthony Ashley Cooper ceased to attend. Accordingly, the council of the protectorate was a small body, as the privy council of Elizabeth had been—fourteen, fifteen, or sixteen.

In the latter part of 1654 the first parliament of the protectorate drafted a constitutional bill that embodied considerable change, and would, had it become effective, have diminished the power of protector and council. There were to be triennial parliaments. The exercise of the chief magistracy was to be in a lord protector of the commonwealth of England, Scotland, and Ireland assisted by a council, but it was to be in the council entirely after the death of a protector and before the election of another. It was distinctly affirmed that the office of the lord protector should be elective, not hereditary. Election of the protector was to be in such manner as parliament should decree, if a vacancy occurred while parliament was sitting. In the intervals of parliamentary sessions election was to be by the council, at least thirteen of the members being present at the meeting, and eleven agreeing in the choice. The council which assisted the lord protector was to be composed of twenty-one members, and no more, the members to be nominated by the lord protector and approved by parliament. The quorum of the council to be eleven. The council was to continue no longer than forty days after the assembling of a new parliament, without the new approbation of parliament. Except for murder and treason, the protector was to have

[12] *Ibid.*, 7 February 1653-4.
[13] *Ibid.*, I 74, 26 April 1654.
[14] *Ibid.*, I 75, 30 June 1654.

the power of pardon with the consent of the council. Each member of the council was to be admitted to office on taking an oath to be faithful and keep the council's secrets.[15]

Discontent and uncertainty continued. Towards the end of 1656 attempt was made to assassinate Cromwell. Many now believed that a stronger government was needed. Accordingly, the constitution of the protectorate was revised. In February 1657 an address and remonstrance was presented to parliament. In May this was adopted as the Humble Petition and Advice, which amended the constitution as established by the Instrument of Government three years before.

By the Humble Petition and Advice the office of lord protector was made hereditary, and it was provided now that parliament should consist of two houses. The protector's council was not greatly changed. The authors of the constitution desired "that Your Highness and Successours will be pleased to exercise Your Government over these Nations by the Advice of Your Council." [16] It was to be known as the privy council. The constitution provided: [17]

> That none may be added or admitted to the Privy Council of Your Highness or Successors, but such as are of known Piety, and undoubted affection to the Rights of these Nations, and a just Christian Liberty in matters of Religion, nor without consent of the Council to be afterwards approved by both Houses of Parliament, and shall not afterwards be removed, but by consent of Parliament, but may in the Intervals of Parliament be suspended from the Exercise of his place

[15] MS. in the possession of Lord Braye, printed in Gardiner, *The Constitutional Documents of the Puritan Revolution* (Oxford, 1906), pp. 428, 429, 430, 431, 441, 442.

[16] Henry Scobell, *A Collection of Acts and Ordinances* (London, 1658), ii. 381.

[17] *Ibid.*, pp. 380, 381.

by your Highness, or your Successors and the Council, for just cause.

The number was not to exceed twenty-one. As before the quorum was seven.[18] The protector and his successors were to exercise the government with the advice of this council. So far as the constitution could bring it about, the council was now somewhat less powerful as compared with the protector than before.

Certain modifications and additions were embodied in the Humble Additional and Explanatory Petition and Advice of June 1657, which contained an oath prescribed for all members of the privy council.[19] It embodied an oath of fidelity to the protector himself. To this there was much objection by some who had been members of the council as previously constituted, and they were unwilling now to enter the new council. 13 July eight members were sworn:

The lord president, Lawrence
General John Desborough
Lord Commissioner Fiennes
earl of Mulgrave
Viscount Lisle
Mr. Rouse
The lord deputy of Ireland, Fleetwood
Lord Strickland

while on the protector's nomination, Secretary Thurloe was admitted. Lambert remained intractable, and this was the occasion of his fall. "Some of the councell refuse to take the othe particularly the Lord Lambert and S[r]

[18] Sir Charles Firth is not quite correct when he says, "the number of councillors was raised to twenty-one, but the size of the quorum remained unaltered": *The Last Years of the Protectorate* (London, 1909), ii. 2. By the Instrument of Government also it had been provided that the number of the council was "not . . . to exceed twenty-one."

[19] Scobell, ii. 452.

Gilbert pickering; the first of whome has deliuered up his comion and quitted all publiq^ue employem^ts." [20] Three more yielded during July, two in August, and the last in October: [21]

Colonel Sydenham
Major General Skippon
Sir Gilbert Pickering
Colonel Philip Jones
Sir Charles Wolseley
Colonel Edward Montagu

By the end of October the council again actually consisted of fifteen members, about as it had under the Instrument of Government. Twelve of them had been in the protector's council established in 1653-4.

Oliver Cromwell died 3/13 September 1658. At once the privy council proclaimed that the Lord Richard had during the life time of his father been appointed to be successor. On the morning of 4 September he was solemnly proclaimed through the city. That afternoon he was sworn in his own lodgings "before the Councell", the lord mayor of London, and others.[22] Richard having been proclaimed lord protector, the council at once dispatched letters to the officers of the army, to the fleet, to the lord deputy and council in Ireland, and to the council in Scotland.[23] The scanty record—the index—that now remains of the council's activities for this period, shows also that as soon as Richard had been proclaimed lord protector, the council was busied with renewing the pat-

[20] Letter from ? to John Franklin, an English merchant in Paris: S. P. Foreign, France, cxiii, 23 July/2 August 1657.

[21] S. P. D., Interregnum, I 78, 13, 21, 28 July, 6, 25 August, 24 October 1657.

[22] John Thurloe to the commander of the Mediterranean fleet: S. P. Foreign, France, cxiv, 9/19 September 1658.

[23] S. P. D., Interregnum, I 84, cols. 2, 7, 15, 22, 31, 32, 35, 36.

ents and commissions of the judges and other officials.[24] In effect a new council was constituted as at the beginning of a new reign. Accordingly, not only did the members and the clerks take a new oath, but committees were reconstituted or revived.[25] It was composed however, substantially of those who had made up the council preceding. During the brief period that the confused times allowed to it now the protector's privy council went on unchanged.

The councils of state of the commonwealth being the creatures of parliament and regulated by rules formally drawn up by parliament when they were established, the methods and rules of these councils are easily learned from study of the regulations prescribed in the order books or in the journal of the house of commons. The council of the protectorate, like the king's privy council, was not subject to such regulations, and its rules and methods must be deduced from what it did and from regulations which it made from time to time.

Its style was the council, the council to his highness, or council of state. "Ordered by his Highnesse the Lord Protector & his Councell that the said Report bee approved", runs the comment upon a report from the commissioners of the admiralty in 1654.[26] Somewhat later a petition was addressed to "the right Honourable the Councell of state to his Highnes the Lord Protectour."[27] Another petition was addressed to "the right hono^{ble} the Councell of State."[28] Another petition was to "the Lord President & the rest of his Highnes Councell of State."[29] On the first leaf of one of the volumes of the records of this council some one, probably Sir Joseph Williamson, afterwards wrote: "Usurpers Councell Booke from 3 Apr. $\overset{5}{1655}$ till 21. Mar. $165\overset{5}{6}$."[30] Meanwhile, as the gov-

[24] *Ibid.*, cols. 18, 22, 29, 32.
[25] *Ibid.*, I 78.
[26] *Ibid.*, lxv, 10 January 1653-4.
[27] *Ibid.*, lxxiii, 73 i.
[28] *Ibid.*, cxxviii, 1 July 1656.
[29] *Ibid.*, cxxix, 7 August 1656.
[30] *Ibid.*, I 76.

ernment was being strengthened, as many desired a king, and some wished that Cromwell would be king, the council of the protector began to be known again by the name it had had under monarchy. In 1656 a report was prepared "For the Right Hono^{ble} his Highnesse Privie Councill." [31] The Humble Petition and Advice contained regulations for the "Privy Council" and this title was at once used in the council's record, as when Colonel Sydenham "tooke the Oath of a privy Counsello^{r}" [32] In 1657 a petition was addressed to "his Highnes the Lord Protector, & to the R^{t} Hono^{ble} the Lords of his privy-Councill",[33] and in the next year another to "the right Honble the Lords of his Highness most Honble privy Councell." [34]

When the protector's council was constituted each member before being admitted was required to take "The Oath of a Councello^{r}": [35]

> I. A: B. being nominated and appointed to be one of the Councell to his Highnesse the Lord Protecto^{r} of the Comonwealth of England Scotland and Ireland and the Dominions thereto belonging, doe promise in the sight of God That I wilbe true and faithfull in my trust, according to the best of my knowledge And that in the Election of every successive Lord Protector I shall proceed therein impartially, and doe nothing therein for any promise feare favo^{r} or reward.

Apparently councillors were under obligation not to reveal any council proceedings which the council ordained should be secret. In 1654 there is the note: "Ordered that the present report made by Mr Secretary to the Councell touching the businesse with Holland bee put under Secrecy." [36] In 1655 the clerks of the council were bidden

[31] S. P. D., Interregnum, cxxvi, 25 April 1656.
[32] *Ibid.*, I 78, 21 July 1657.
[33] *Ibid.*, clvi. 5.
[34] *Ibid.*, clxxxi, 29 June 1658.
[35] *Ibid.*, I 75, 20 December 1653.
[36] *Ibid.*, 10 March 1653-4.

to look over the council books, then give account to the council what business had by any order of the council been put under a secrecy not yet taken off.[37] That year the council book shows the lord protector and eleven members present at a meeting concerning which it is merely recorded that: "The orders of this day are all entered into the private booke."[38] By the Additional Petition and Advice of 1657 councillors were not only required to take an oath of fidelity to the lord protector but to swear to keep secret all matters treated of in the council and put under secrecy, and not reveal them unless so commanded or permitted by the protector, the parliament, or the council.[39] It was the obligation to the protector and to the system now being established that made certain councillors reluctant to take the new oath. After some delay, however, all the members but Lambert took the engagement, and the clerks of the council took a new form of oath also.[40]

Over the protector's council, as over the councils of state of the commonwealth, a president or a lord president presided. Immediately after it had been constituted Henry Lawrence was spoken of as the president,[41] and shortly after the council resolved that he should be appointed to the chair for one month.[42] A month later: "Ordered by his Highnes the Lord Protector, now present in Councell, That Henry Lawrence Esqr be continued President of the Councell till further order."[43] In 1656 he was being referred to as lord president: "The Lord President haveing occasion to be absent the Lord Visc^t^ Lisle was called to the Chaire."[44] As in the privy council of James I and

[37] *Ibid.*, I 76, 13 April 1655.
[38] *Ibid.*, 3 May 1655.
[39] Scobell, ii. 452.
[40] S. P. D., Interregnum, I 78, 13 July 1657.
[41] *Ibid.*, xlii, 16 December 1653.
[42] *Ibid.*, I 75, 19 December 1653.
[43] *Ibid.*, 16 January 1653-4.
[44] *Ibid.*, I 76, 7 March 1655-6.

Charles I and in the councils of state, the president signed the orders and communications sent out by the protector and council. On Christmas Eve in 1657 the council ordered "That dureing the absence of the Lord President, the Lord Visc^{t} Lisle who hath the Chaire doe signe the Letters, and warrants of the Councell, in the stead of the Lord President." [45]

Attendant on the council were various assistants and servants, as had been the case with the councils preceding. In December 1653 Thurloe, who had been secretary to the council of state had become "Sec^{ry} of the Councell" to the protector.[46] At first he was not a member of the council, but he was at times ordered to attend meetings of council committees.[47] In this capacity he attended to business that had in the preceding generation been handled by the secretaries of state. In November 1656 he was ordered by the council to prepare a letter to be sent from his highness to the king of Denmark, concerning Cromwell's efforts to obstruct the ratification of the treaty between the king of Sweden and the United Provinces.[48] It was not long before he was known as secretary of state. In a list of salaries drawn up in 1655 is the item: "To John Thurloe esq^{r} Secretary of State for his owne ffee" £800 a year.[49] And the commissioners of the customs so address him about the same time. Secretary of the council as well as secretary of state, he was present at the meetings of the council, but he continued outside the membership of the council, his name not appearing in the lists of those noted as present at meetings. Most probably, however, he often took a more important part in the business than some of the members. At a meeting of the council in

[45] S. P. D., Interregnum, I 78, 24 December 1657.
[46] *Ibid.*, I 75, 27 December 1653.
[47] *Ibid.*, 15 February 1654-5.
[48] *Ibid.*, I 77, 13 November 1656.
[49] *Ibid.*, I 76, 17 April 1655.

May 1656 "Mr Secry presents some Letters from his Highness Agent in Portugall . . . wch were taken into Consideration." [50] In July 1657 he became a member of the council which he had for some years been attending: "His Highness this day nominated John Thurloe Esqr Secretary of State, to be one of his Highness Councell, wch was, by Vote of the Councell, upon the Question, consented unto, and he took the same Oath, this day, before the Lord President and Generall Disbrow." [51]

In February 1654 Thurloe presented a list of under-officers and servants whom he proposed as necessary for the council: a Latin secretary—Milton remained at the disposition of the council, but his blindness now prevented him from doing the work, which was given over to Philip Meadow, previously employed as Latin translator, but now given the title of secretary along with its duties; a serjeant at arms; a treasurer for the council's contingencies; seven under clerks; eleven messengers; nine serjeant deputies; various men and women servants, to make fires in the rooms or clean them—the men at two shillings a day, the women at one. The total cost was estimated at about £ 3500 exclusive of Thurloe's own stipend.[52] In January 1654 two clerks of the council were appointed, taking the oath before the council: Henry Scobell and William Jessopp.[53] Like all the minor servants of government then these council assistants were irregularly paid. In December 1658 the under clerks, messengers, serjeants, deputies, and other officers attending the privy council petitioned for half a year's salary and half a year's expenses they having gone unpaid for six months and having expended from their own pockets

[50] *Ibid.*, I 77, 5 May 1656.
[51] *Ibid.*, I 78, 13 July 1657.
[52] *Ibid.*, I 75, 3 February 1653-4.
[53] *Ibid.*, 6 January 1653-4.

money for the council's necessary expenses during that time.[54]

Under Oliver Cromwell the privy council met usually at Whitehall, in the chamber long used for council meetings. Cromwell now had his lodgings at Whitehall.[55] In 1655 it was ordered "That seuerall volumes of the booke called the New Atlas be bought for the use of the Councell and that the Globe heretofore standing in the Councell Chamber be againe brought thither."[56] In the latter months of Cromwell's life, however, the council met outside of London as well. In July 1658 the rule was made that in future the council should assemble in London every Tuesday and at Hampton Court every Thursday, until further notice.[57] Accordingly, various meetings were then held at Hampton Court.[58]

As with former councils, regular days for council meetings were appointed, different at different times, the days being frequently changed, while special meetings were called or arranged in advance as occasion required. By a rule made in December 1653 the council was to sit each Friday morning and afternoon; Monday, Tuesday, Wednesday, Thursday it was to meet only in the morning; Saturday not at all unless upon special order from the lord protector.[59] Shortly after the regular day for afternoon meeting was changed from Friday to Thursday.[60] In 1656 it was ordered "That the Councell doe on their meeting dayes meete in the after noone of Each day at 3 of the Clock and sitt till Six."[61] As in other times many special meetings were arranged or ordinary meetings

[54] S. P. D., Interregnum, clxxxiv, 1 December 1658.
[55] *Ibid.*, I 76, 9 January 1655-6.
[56] *Ibid.*, 2 October 1655.
[57] *Ibid.*, I 78, 20 July 1658.
[58] *Ibid.*, clxxxii, 29 July, 5 August 1658.
[59] *Ibid.*, I 75, 28 December 1653.
[60] *Ibid.*, 10 February 1653-4.
[61] *Ibid.*, I 76, 11 March 1655-6.

postponed or given over. In 1654 at a morning meeting the council ordered its members to assemble again that afternoon to consider certain Dutch business, and the secretary was told to ask the lord protector to be present.[62] A few days later: "That the tyme of the Councells sitting for the weeke next comeing bee from nine of the Clocke in the forenoon till twelve and that dureing that time all Committees of the Councell forbeare sitting upon the matters to them referred." [63] At a meeting in April 1654 sitting was adjourned "till Tuesday morning next." [64] Shortly after the council was ordered to sit every morning at ten o'clock for a week for the dispatch of reports and petitions.[65] On other occasions the council appointed meetings at seven and at eight o'clock in the morning for consideration of particular business.[66] In August 1656 it was ordered "That the Counsell doe meet to morrow, and that those in, and about London be for that purpose Sumoned . . . That a Sumons be sent to the Seu[r]all members of the Counsell now abroad, for their speedy comeing up to London." [67]

At the privy council of the protector attendance was generally good. In December 1653 the rule was made:

> That all the members of the Councell doe constantly meet at nine of the Clocke in the morning on sitting dayes under the penalty of 2[s] 6[d] to the use of the poore to be payd to M[r] Jessop for every default, unless a reasonable excuse (to be allowed by the President of the Councell for the tyme being).

And this rule was confirmed by the lord protector the same day.[68] During the period 16 December 1653 to 28

[62] *Ibid.*, I 75, 24 February 1653-4.
[63] *Ibid.*, 28 February 1653-4.
[64] *Ibid.*, 7 April 1654.
[65] *Ibid.*, 11 May 1654.
[66] *Ibid.*, 22 June, 7 July 1654; I 76, 9 October 1655.
[67] *Ibid.*, I 77, 28 August 1656.
[68] *Ibid.*, I 75, 28 December 1653.

February 1654, in which time the council, beginning with thirteen members was soon increased to fifteen, the average attendance was about ten.[69] From 1 March to 28 December 1654, while the membership continued to be fifteen, and when there were 164 meetings, the average attendance was again nearly ten.[70] From 5 January to 22 October 1655, when the membership was fourteen, and when there were 186 meetings, the attendance remained a little short of ten.[71] Some of the members came with constant regularity. From 1 November 1655 to 26 June there were 129 meetings. During that period President Lawrence came 126 times; Strickland, 120; Colonel Jones, 116; Viscount Lisle, 104; Lambert, 102; Colonel Sydenham, 98.[72] From 1 July 1656 to 26 May 1657 there were 103 meetings of the council. The president came 97 times; Strickland, 93; Lambert, 86; Colonel Jones, 85; Fleetwood, the lord deputy of Ireland, 81.[73] From 13 July 1657 to 29 April 1658 there were 113 meetings of the council. The lord president came 98 times; Walter Strickland, 106 times; the secretary of state, 74 times.[74]

The lord protector, as had been the case with the king generally in the period preceding, came infrequently to council meetings. Of the sixty-three meetings from 16 December 1653 to 28 February 1654 Cromwell was present at fourteen.[75] Of the hundred and sixty-four meetings in the period 1 March to 28 December 1654 he was present at only twenty-eight.[76] During the same time President

[69] *Cal. S. P. D., 1653-1654,* preface, pp. ix, x, xxxvii-xxxix.
[70] *Cal. S. P. D., 1654,* preface, pp. xxxvi-xliv.
[71] *Cal. S. P. D., 1655,* preface, pp. xxv-xxviii.
[72] *Cal. S. P. D., 1655-1656,* preface, pp. xxviii-xxx.
[73] *Cal. S. P. D., 1656-1657,* preface, pp. xx-xxii.
[74] *Cal. S. P. D., 1657-1658,* preface, pp. lii-liv.
[75] *Cal. S. P. D., 1653-1654,* preface, pp. ix, xl.
[76] *Cal. S. P. D., 1654,* preface, p. xliv.

Lawrence came to every one of the meetings.[77] Of the hundred and twenty-nine meetings from 1 November 1655 to 26 June 1656 he was at forty-five.[78] Of the hundred and three meetings from 1 July 1656 to 26 May 1657 Cromwell came to forty-one.[79] Of the hundred and thirteen meetings of the council from 13 July 1657 to 29 April 1658 he came to twenty-one.[80] In December 1657 the council resolved: "That it be offered to his Highness as the advise of the Counsell That his Highness would be pleased, that the Lord Richard Cromwell be one of his Highness privy Counsell."[81] Richard Cromwell was shortly afterward admitted, 31 December. Until the end of April he was present twenty-eight times.[82] Sometimes Cromwell came into the meeting after the session had begun and after a considerable part of the business had been finished. In the record of a meeting of the council in November 1655, in the margin beside the eighth of the twenty-four items of business transacted, is the note: "His Highness pnt."[83] On the other hand, at a meeting of the protector and twelve of the council in May 1656, by the eighth item of business recorded is the annotation: "His Highness wthdrew."[84]

Procedure was much as it had been. In 1653 it was provided that the minutes of all orders pronounced by the council should be read in the council for the members' approbation before being passed.[85] In 1656 the clerks were bidden to inform themselves what public business then remained before the council and give to the lord president

[77] *Cal. S. P. D., 1654,* preface, p. xliv.
[78] *Cal. S. P. D., 1655-1656,* preface, pp. xxviii-xxx.
[79] *Cal. S. P. D., 1656-1657,* preface, pp. xx-xxii.
[80] *Cal. S. P. D., 1657-1658,* preface, pp. lii-liv.
[81] S. P. D., Interregnum, I 78, 8 December 1657.
[82] *Cal. S. P. D., 1657-1658,* preface, pp. lii-liv.
[83] S. P. D., Interregnum, I 76, 2 November 1655.
[84] *Ibid.,* I 77, 22 May 1656.
[85] *Ibid.,* I 75, 20 December 1653.

a note thereof; and that from time to time in the future they should do the same with respect to all the public business unfinished.[86] In 1654 it was arranged that for a while petitions should be heard from nine to ten o'clock in the morning, after that hour none without special leave of the council.[87] A little later it was ordered "That the receiveing of all new private businesse into the Councell be forborne for fifteene dayes." [88] During this period, as before and afterwards, it would seem that there was often more business to be done than the council could easily discharge. In December 1657 it was ordered that public business before the council should each day be considered before business of a private nature, and the lord president was bidden to remind the council of this rule as occasion demanded.[89] Business was, if necessary, decided by debate and by voting. At a meeting in January 1655, upon the question put whether permission should be given to the envoy of the Archduke Leopold to transport six mares from Dover into Flanders, "it passed in the Negative." [90]

Much of the council's work was transacted in committees or with the assistance of committees hereafter to be described. "Colonell Mountagu makeing report of what was referred to a Comittee of the Councell concerning the post offices. Ordered that the said report shalbe taken into debate on ffriday morning next." [91] A few days later the report on the post offices was read in council and debated.[92] Sometimes a day was set aside altogether for committee work, the council then not to sit.[93] In 1655 the rule was made that for the future all reports made to the council by committees should be in writing and

[86] S. P. D., Interregnum, I 76, 18 January 1655-6.
[87] *Ibid.*, I 75, 28 February 1653-4.
[88] *Ibid.*, 30 May 1654.
[89] *Ibid.*, I 78, 24 December 1657.
[90] *Ibid.*, I 75, 29 January 1654-5.
[91] *Ibid.*, 18 January 1653-4.
[92] *Ibid.*, 20 January 1653-4.
[93] *Ibid.*, 10 March 1653-4.

signed by the members of the committee or by a quorum of them.[94] In 1656 the record notes that " On the question putt, whether it should be referred to a Com^ee to consider of what was now proposed for sending of 30,000^P to Ireland, for the forces there, out of the prize plate, and money lately taken from the Spanyards, it past in the Negatiue." [95]

The records of the council for this period are in many respects not so satisfactory as those for the period preceding. The order book for 1654, for example, is a huge, thick folio volume in which the regular record of council business is contained. Evidently, however, there is much not included in this book. Committees are alluded to sometimes apparently without previous notice that such committees were appointed. Oftentimes council business elsewhere mentioned is not mentioned in the council record.[96] For the time after Oliver Cromwell's death the information remaining is comparatively scanty. Except for August, September, and October 1659 none of the council order books seem to exist now, so that from September 1658 to August 1659, and from January to May 1660 the student finds only the index books to missing order books, from which scanty notices are to be had, about which the dates have to be conjectured.

Relations of protector, council, and parliament recall the relations of king, privy council and parliament in the time of James I and Charles I. Protector and privy council held position of high dignity and great importance. Supporters were proud of the lord protector's power and discontented only because he had not the royal title. Opponents decried him as a tyrant, more powerful and ruthless than Charles I ever had been. " The King," a

[94] *Ibid.*, 31 January 1654-5. [95] *Ibid.*, I 77, 16 December 1656.
[96] For example, *ibid.*, lxvii. 16; *ibid.*, I 75.

certain one was reported as saying in 1656, "Lost his head for raysing a Lettell ship mony but now things are ten tymes worse." [97] In the next year Lady Conway wrote to a correspondent abroad about "The parliam^t haueing setled that gouerm^t wch they proferred under the stile of Kingship to one altogether as absolute, Royall, and hereditary, only wth the alteration of that name and title, to protector"; and she added "I am here a Stranger in the Court where my l^d protect: hath perfectly Induced the Spanish habit and port." [98] In December 1653 the council ordered "That in case of Addresse by petition the same shall be directed to his Highnesse Oliver Lord Protector of the Comonwealth of England Scotland and Ireland." [99] The council was known indifferently as the privy council or the council of state. Petitions were addressed to "His Highnes the Lord Protector and the right Honble the Lords of his Councell" [100] or to "the right hon^ble the Lords of his Highnes Privie Councell".[101] Orders were issued "by his Highness the Lord Protector by and wth the advise of the Councell." [102] In 1657 at a meeting of the protector and eight of the council was accepted the humble desire of the lord mayor of London that the council would dine with him the next Tuesday.[103] In September 1656 seats were ordered prepared in Westminster Abbey for his highness and council, to hear the sermon on the first day of the sitting of parliament.[104]

The protector was usually not present at meetings of the council, but he kept firm control of its affairs. Ordinances of the council had always to be presented for his approval, and none could be passed without his consent.[105]

[97] S. P. D., Interregnum, cxxix, 3 August 1656.
[98] Letter to M. Mayet: S. P. Foreign, France, cxiii, 13/23 June 1657.
[99] S. P. D., Interregnum, I 75, 19 December 1653.
[100] *Ibid.*, cxxvii. 31.
[101] *Ibid.*, clxxxiii. 70.
[102] *Ibid.*, clxxxi. 62, 63.
[103] *Ibid.*, I 78, 8 October 1657.
[104] *Ibid.*, I 77, 15 September 1656.
[105] *Ibid.*, I 75.

Formally the council was as respectful to the protector as the old privy council had been to the king. In 1656 the council resolved "That it be offered to his Highness as the advise of the Councell, That his Highness will please to order Justice Hales not to goe the next Circuit." [106] On the other hand, it has sometimes been thought that the protector was virtually uncontrolled, and that the council imposed on his authority a nominal limitation only. It was not so. According to the constitution the protector was to govern with the advice of his council, and though it is not certain that Cromwell's will was ever positively thwarted in the council, it is no more certain from the records that he definitely sought to impose it. The privy council of the protectorate was stronger, with respect to the principal executive official, than the privy council of other days had been in relation to the king. Probably the protector had difficulty at times in making his views prevail; apparently he relied rather on persuasion and argument than any compulsion or higher authority; and doubtless he frequently found it expedient to be persuaded by the council members.[107] "Its most certeyne," wrote Edward Nicholas to a friend at the Hague in 1656, "there are very great distemp^{rs} now among the great and in rule in Engl^{d}, & that Cromw^{ll} is now more full of ielousies then eu^{r}". And he added: "Lambert is now for certeine the Armys darling, & the only p^{r}son courted; he hath acted more there wthin these 3. weekes, then he hath donne in all his tyme before; he is dayly in Councell, & carries (for c^{r}teine) all before him." [108] Doubtless afterwards Oliver's son had much less control. In January 1659 the French ambassador wrote to Mazarin that Richard Crom-

[106] *Ibid.*, I 77, 26 June 1656.

[107] Gardiner, *History of the Commonwealth and Protectorate*, ii. 292.

[108] Secretary Nicolas to Joseph Jane, Cologne, 21/31 March 1655-6: S.P.D., Interregnum, cxxv. 54.

well was unwilling to bring a certain matter before the council of state, without the advice and participation of which few matters were decided, for fear that the council would adopt a resolution contrary to that which he wished.[109]

There was a striking contrast between the period of the commonwealth—when the councils of state had been committees of parliament and had for the most part acted with it, the two doing much work together—and the period of the protectorate—when the privy council and lord protector, both raised above parliament, and virtually uncontrolled by parliament in any way, strove to manage it and often did with it as they would. Where in the period preceding there had on the whole been harmony between parliament and the various councils of state, now under the protectorate council and protector were unable to work harmoniously with any parliament, and each of the parliaments called was speedily broken.

In 1656 a certain one wrote: "The Pro^{tr} (its believed) hath lay'd aside thoughts of a Parl$\bar{m}$t, and is now doubling the Taxe wth out them."[110] In September, when a new parliament had been called, and many of the members excluded, the protector made to those admitted a speech some three hours long: "its supposed that he hath soe roused a pty in the house that its hoped we shall haue now some Acts to purpose."[111] A little later the same correspondent wrote that notwithstanding parliament was so moulded and so many made incapable of sitting, yet Whitehall was not satisfied with it.[112] In the summer of

[109] M. de Bordeaux to Cardinal Mazarin, 16 January 1659 (N. S.): François Guizot, *History of Richard Cromwell and the Restoration of Charles II* (trans., London, 1856), i. 282.

[110] T. Ross to Secretary Nicholas, Paris, 9 July 1656. S. P. D., Interregnum, cxxviii, 107.

[111] Humphrey Robinson to Sir Joseph Williamson: *ibid.*, cxxx, 18 September 1656.

[112] *Ibid.*, cliii, 15 January 1656-7.

1657 another wrote that parliament having settled the form of government was prorogued until October, "for this is too fine, and tractable a parliament to be dissolued." [113] In December Secretary Thurloe wrote to Lockhart, the ambassador in Paris, "h: h: hath agreed upon a list of names for the other house of parlam^{t}".[114] A few months later another wrote that both houses upon the lord protector's summons had met him in the Banqueting House at Whitehall, where his highness spoke very long to them, exhorting them to union and agreement.[115] On dissolution of parliament, which followed hard after, "its thought he will take the legislative power, and send privy seales to o^{r} great monied men." [116] In December 1658 Cromwell and the council agreed that another parliament should be called to sit in February, and his supporters hoped the new body would promote settlement and study the peace of the nation.[117]

[113] Lady Conway to M. Mayet: S. P. Foreign, France, cxiii, 13/23 June 1657.

[114] *Ibid.*, 10/20 December 1657.

[115] *Ibid.*, cxiv, 25 January/4 February 1657-8.

[116] Humphrey Robinson to Sir Joseph Williamson: S.P.D., Interregnum, clxxix, 13 February 1657-8.

[117] Robert Blackborne to Captain Stoakes: S. P. Foreign, France, cxiv, 2/12 December 1658.

CHAPTER XIII

WORK OF THE PROTECTORATE COUNCILS

THE work of the privy council of the protectorate was large and varied. It was much like that of the councils of state and of the committee of both houses preceding; and it was even more like that of the privy council before the civil wars and the fall of the king. It can be studied partly in what the council accomplished in its various sessions, partly in what was done by numerous and active committees, to be considered later on. As in chapters preceding, it is probably a dull and laborious theme, to be constructed from a vast abundance of details that made the life and the work of the council. As before, a glimpse may be had by studying the council in some of its sessions; better understanding by grouping the activities in what seem to have been the main categories of work.

At a meeting in March 1654, at which eleven members of the council were present, " The Lord President reported that he hath p^r^sented unto his Highnes, the Lo. Protect^r^ these Ordinances which his Highnes doth approue": an ordinance for reviving an act of parliament for impressing seamen; an ordinance imposing a tax of four pence a pint on Scots ale and beer in Edinburgh; an ordinance for the relief of persons who had acted in the service of parliament. Respecting forty orders during the month preceding: " His Highnes the Lord Protecto^r^ was this day attended by the Lo: Presid^t^ with the seuerall Ord^rs^ following Which being read by Mr Jessop, His High^ns^ did in his Lo^pps^ p^r^sence approve the same." [1] It should be noted that

[1] S. P. D., Interregnum, I 75, 23 March 1653-4.

whereas orders, proceedings, decisions and other things done in the council of the Stuart kings had been known as "causes" or "acts," in the protector's council the term "ordinance" was frequently used not merely with respect to proceedings essentially legislative—what had formerly been known as acts when passed by parliament, and ordinances when passed in the privy council—but also with respect to various proceedings, decisions, and orders. During this time, for example, the standing committees of the council seem to have been appointed by ordinances of the council, and not merely named as formerly it had been done.[2]

In August 1655, at a meeting of the lord protector and nine of the council, passes were granted to various persons to go beyond the seas, and numerous petitions referred for consideration. Ordered that two weeks pay, which was to be given out of the sum of £ 92,000 appropriated from money arising out of compositions, sequestrations, or sale of delinquents' estates, which was not available, however, because insufficient money had come in from these sources, should be made up to the extent of some £ 10,800 "out of any other monyes in their hands." And that "they doe reimburse the same out of the next monies that shalbe paid unto them out of the Exchequr upon the said Seale." Until further notice, Sir Thomas Vyner and Alderman Riccard not to pay from £ 85,000 deposited in their hands, any more of the £ 30,000 previously ordered to be paid to the East India Company. Consideration of certain navy business to be on the following morning. Provision of victuals to be made for 8,000 men for the fleet for six months for the winter guard. The admiralty commissioners to consider whether the navy victualling could be better managed by contract or by themselves.

[2] *Ibid.*, xlii, 26, 31 December 1653.

Three of the council were appointed to consider the state of the treasuries, what allowance might be regularly supplied for the navy. The petition of certain inventors was referred to the lord mayor and the aldermen of London for their report.[3]

As the privy council had assisted the king in important government matters, so now the protector's council took part in management and affairs of state. In December 1653 was prepared in the council a proclamation for continuing commissions and courts of law:

> That all persons who on the tenth day of this instant Decembr were duly and lawfully possessed of any place of Judicature or office of Authority, Jurisdiction or Governmt with in this Comonwealth, shall be, and shall soe hold themselves continued in the said Offices and places respectively, as formerly they held & enjoyed the same, and not otherwise, untill his Highnesse pleasure be further knowne. And all Comissions, Patents and other Grants, which respect or relate unto the doeing and executing of publique Justice, and all proceedings of what nature soever, in Courts of Comon Law or equity, or in the Court of Admiralty, or by Comissionrs of Sewers shall stand and be in the same and like force to all intents and purposes as the same were on the said tenth day of this instant Decembr, untill further Order given by his Highnesse therein.

The draft of this proclamation, presented to the protector with the advice of the council, was by his highness with consent of the council passed and ordered to be printed and published.[4] In April 1654, at a meeting of the lord protector and eight of the council, the ordinance for uniting Scotland in one commonwealth with England was

[3] S. P. D., Interregnum, I 76, 1 August 1655.
[4] *Ibid.*, I 75, 21 December 1653.

read for the third time and the blanks filled up at the table; whereupon it was passed by his highness with consent of the council.[5] Shortly after: "The Lord President reports his Highnesse approbation of the Writt for election of Members to Parliament, which was now passed."[6]

During much of this time Cromwell and his privy council ruled England with as much authority and decision as Charles I and his privy councillors had in the era preceding. A fortnight after the protector had dismissed his first parliament elected under the Instrument of Government:

> The Cōmittee of the Councell [to which the matter had been referred] report amendments to the Order & Declaracōn of his Highnesse the Lord Protector with the advise of his Councell, for an Assessment of Three score thousand pounds by the moneth for six moneths for and towards the maintenance of the Armyes and Navyes of this Cōmonwealth, and the whole order wth the amendments was read by parts, and severall alteracōns and omissions being agreed, the whole soe amended was assented unto, and with this Title was passed and Ordered to be presented to his Highnesse as the advise of the Councell.

Next day it was approved by the protector and ordered to be printed and published.[7] In March the council settled the civil government of Scotland.[8] In the council were drawn up the instructions to the major generals for governing the districts of England.[9] In March 1658 it was ordered "That the Counsell be Sumond prticularly to be present, precisely at Nine of the Clock to-morrow morning, upon important business by the Speciall Comaund of his Highness."[10] In the council officers and officials were

[5] *Ibid.*, 12 April 1654.
[6] *Ibid.*, 26 May 1654.
[7] *Ibid.*, 6, 7 February 1654-5.
[8] *Ibid.*, 30 March 1655.
[9] *Ibid.*, I 76, 22, 24 August 1655.
[10] *Ibid.*, I 78, 25 March 1658.

appointed. In council, in June 1655, the protector in person approved the appointment of Miles Corbett as chief baron of the court of exchequer in Ireland.[11]

The council was essentially an advisory and executive body, occupied with problems of administration, but circumstances of the time caused it to be much concerned with legislative work as well. It was asserted from the start that the lord protector and his council had power until the next meeting of parliament "to make Lawes & Ordinances for the peace and welfare of these Nations, where it shall bee necessary, which shall be binding and in force untill order shall be taken in Parlam^t^ concerning the same."[12] The council at once proceeded to prepare a bill for renewing the former powers for probate of wills, and this bill was quickly passed.[13] At the same time order was given to bring in to the council "the draught of an Act for confirming of the Excise till further order."[14] For 1659 a remaining index book of the council record contains note of an "Act to be p^r^pared for Treason" and an "Act for such as have served p^t^ of their tyme of Apprenticeship in the warres to be p^r^pred."[15] To Thurloe, secretary of the council, was entrusted the task of making ready for enrolling and publication "the Instrument entitled The Government of the Comonwealth."[16]

The privy council of the protector had much to do with the procuring of revenue, appropriation of money, and management of taxation, and finance. In 1654 the council referred it to the committee for inspection of the treasuries to consider how £7,000 might be speedily provided for contingencies of the council.[17] A little later an ordinance presented by a committee of the council for bringing

[11] S. P. D., Interregnum, I 76, 13 June 1655.
[12] *Ibid.*, I 75, 21 December 1653.
[13] *Ibid.*, 20, 21 December 1653.
[14] *Ibid.*
[15] *Ibid.*, I 85, col. 2.
[16] *Ibid.*, I 75, 20 December 1653.
[17] *Ibid.*, 21 April 1654.

the public revenues of the commonwealth into one treasury was read, amended, and passed, by the protector with consent of the council.[18] In 1655 there was an order "That it be referred" to certain ones "to consider of and prepare something to be offered to the Counsell for the better Collecting the Customes and Excise in Scotland."[19] A little later it was ordered by the protector and his council that the committee for the army should issue warrants to the treasurers at war authorizing them to send, out of the moneys designed for the forces in Ireland, £40,000 by wagons to Chester, thence by ships, as the commissioners of the admiralty should direct, to be taken to Dublin for the forces in Ireland.[20] In September 1655: "Ordered That all such monyes as shalbe paid into the receipt of his Highnes Exchequr this weeke shalbe paid unto the Treasurer of the Nauy for the service of the Nauy and that the Comrs of the Treary doe take care the same be done".[21] In 1657 the council referred to a committee of eight members consideration of the whole question of public money, particularly payment of the protector's household, the council's contingencies, payment of the public officers, allotment of revenue to the army and the navy, and how £300,000 for the government's charges might best be obtained.[22] A little later the council referred it to the committee "for the affaires of money" to consider the state of the revenue payable into the receipt of his highness's exchequer, and the sums charged on that receipt, and what would be fit to be offered upon this debate "for makeing the Charge thereon, proporconable to the Income."[23]

As was the case with councils preceding, the protector's council had much to do with management and direction of

[18] *Ibid.*, 21 June 1654
[19] *Ibid.*, 5 June 1655.
[20] *Ibid.*, I 76, 13 June 1655.
[21] *Ibid.*, 3 September 1655.
[22] *Ibid.*, I 78, 21 July 1657.
[23] *Ibid.*, 8 September 1657.

the army and the navy—much more with the navy than the army, which was in this unusual time so largely of a law to itself—though a great part of army and of navy administration, as in previous times, was managed by subordinate or related "committees" or boards.

In January 1655 the treasurers at war attending the council, pursuant to an order of the day before, four members of the council were deputed to withdraw from the council chamber and speak with the treasurers about the business for which their presence was required.[24] Shortly after, the protector with the advice of his council referred it to the committee for the army to send into the several counties printed copies of an order for assessment of £ 60,000 a month for six months, for the maintenance of the army and the navy, and to see to the execution of the order.[25] In 1655 the lord protector and his council ordered the committee for the army forthwith to issue their warrant to the treasurer at war to pay to a certain one £ 400 for army expenses.[26]

The protector's council was often occupied with matters that concerned administration of the navy. Immediately on beginning its work the council ordered "That the Com^rs for Inspections [appointed by parliament to inspect the "treasuries"] be desired to prepare an Act for renewing the power of the Trear of the Navy and to bring in the same to the Councell with the first opportunity."[27] During the commonwealth period there had, for administration of naval matters, been instituted a board of commissioners for the admiralty, which now continued to function; and a parliamentary committee for the navy had recently done much work. In January 1654, the council authorized the admiralty commissioners, some of them

[24] S. P. D., Interregnum, I 75, 24 January 1654-5.
[25] *Ibid.*, 10 February 1654-5.
[26] *Ibid.*, I 76, 13 December 1655.
[27] *Ibid.*, I 75, 20 December 1653.

members of the council, to give warrants to the treasurer of the navy for the payment of all monies due for stores and ammunition, and to contract for ammunition and stores to supply the armies and the garrisons, the treasurer of the navy to pay such warrants as the commissioners from time to time issued for such purpose.[28] In June 1654 an ordinance of the council was passed continuing the commission for managing the affairs of the admiralty and the navy.[29] Somewhat later the council drew up instructions for the commissioners, and still later installed them at Derby House, where the parliamentary councils of pre-commonwealth times had so often assembled.[30]

In June 1655 the council ordered that debate about the fleet commanded by General Blake should be resumed first thing the next morning, and that the commissioners of the admiralty and the navy should attend the council.[31] A few days later "At the Councell at Whitehall" the protector and councillors referred it to the commissioners of the admiralty to provide with all speed thirteen weeks' victuals for 3,500 men who were to be continued with Blake.[32] Shortly after: "The Letter to Generall Blake from his Highness was read and agreed to be sent."[33] At a meeting of the council in July it was resolved that next morning there should be consideration of naval affairs.[34] In November 1655 a commission and lengthy instructions to the commissioners of the admiralty and the navy, having been referred to a committee of the privy council, and by the committee presented to the council,

[28] *Ibid.*, 10 January 1653-4.
[29] *Ibid.*, 1, 13 June 1654.
[30] *Ibid.*, 2 September 1654, 25 January 1654-5.
[31] *Ibid.*, I 76, 5 June 1655.
[32] *Ibid.*, xcviii, 8 June 1655.
[33] *Ibid.*, I 76, 13 June 1655.
[34] *Ibid.*, 26 July 1655.

were amended, passed, ordered to be presented to the protector, and then by the protector approved.[35]

At a meeting in 1656 Lambert and Desborough were ordered to withdraw and confer with the commissioners of the admiralty about business then in debate before the council.[36] In 1657, the protector and eight being present, it was ordered "That the whole business of the Fleet be taken into Consideration, at the Counsell, to morrow morning." [37] At another meeting, of the lord protector and nine, was presented a letter from the commissioners of the admiralty and navy, with two letters enclosed—one from the commissioners of the navy, another from the victuallers of the navy—about the necessity of providing money for the navy. Ordered that the council meet again that afternoon to consider the matter.[38] In 1658 the council ordered the commissioners to send necessary provisions to the garrison at Yarmouth.[39]

Local affairs always claimed some of the attention of the council in England, though there was not now, apparently, the minute and constant supervision once given by the privy councils of James I and Charles I. In 1654 Cromwell's council ordered that a committee of the council be appointed for regulation of the justices of the peace throughout the nation.[40] In 1658 the council advised his highness that he would be pleased to issue a proclamation prohibiting all horse racing for the next eight months.[41]

In 1657, following a petition from Quakers, President Lawrence wrote to the justices of the peace: [42]

[35] S. P. D., Interregnum, I 76, 8, 9 November 1655.
[36] *Ibid.*, I 77, 22 May 1656.
[37] *Ibid.*, I 78, 22 September 1657.
[38] *Ibid.*, 29 December 1657.
[39] *Ibid.*, clxxx, 20 April 1658.
[40] *Ibid.*, I 75, 3 January 1653-4.
[41] *Ibid.*, I 78, 8 April 1658.
[42] *Ibid.*, clvii. 88, undated, but apparently relating to 10 November 1657.

His Highness and the Councell haue received seu^rall addresses on the behalfe of diurse prsons comonly called Quakers who are imprisoned in seuerall places some of them for not pulling off their hatts others for not finding sureties for the good behauio^r, or for their retorne to their owne houses and some of them haue layne long in prison and not likely to get out by conforming to what might be expected from them and becomes them to doe, His Highnes and the Councell though they are farre from giving any Countenance to the mistaken principles or practises of such men especially in their disturbance of godly Ministers or in any affronts put uppon Magestrates whose dignity ought to be maintained, yet finding that the same doth for the most part p^rceed rather from a spirit of erro^r wch hath seduced them then from a malicious opposic̄on to authority in wch case they (especially such among them as are otherwise of sober Conversac̄on) are to be pittied and dealt wth as p^rsons und^r a strong delusion who chuse rather to suffer & p^rish then to doe any thing contrary to their strange ungrounded and Corrupt principles. therefore his Highnes and the Councell haue thought fitt to recomend their Condic̄on unto yor prudence to take such Course for the discharge of such of them as are in prisons within yor County as (having put a discountanance on their miscarriages) their liues may be preserued, diu^rse of them hauing died in their imprisonments. And that out of a tendernes towards such poore deluded persons you would as much as in you lyes endeavo^r to prevent this running into such Contempts for not giving that Civill report wch they owe to you as Magestrates when they are brought before you, by Causing their hatts to be pulled off before hand. or that for such contempts such punishment may be inflicted as may rather discountenn̄ce their folly then

endang^{r} their Liues. His Highnes & the Councell iudging it safer in dealing wth persons whose miscarriages arise rather from defects in their understanding then from malice in their wills to exercise too much lenity then too much severity.

There was also not a little council business concerning Scotland, Ireland, and the plantations. In 1655 the protector and the council drew up instructions for " his Highnes Councell in Scotland for the Government of that Nation." [43] A year later a letter from the council in Scotland to the privy council in England, concerning the fines in Scotland, along with papers sent also, was referred to the committee of the council for Scotland to consider and report.[44] On another occasion the privy council ordered " That the Quorum of the Counsell in Scotland be reduced to the Number of three." [45] In 1658 an act of the common council of Edinburgh—that all buyers or sellers of ale there should pay four pence Scots for every Scots pint, to discharge the corporation's debt of £ 54,761, being presented to the lord protector and his council, was approved, provided it were not contrary to law.[46] In the summer of 1655, at a council of the protector and nine, it was ordered that the lord deputy of Ireland should be asked to come to London as soon as he could, to confer about Irish affairs.[47] In 1656 a petition of the agents for Virginia and the other plantations on Chesapeake Bay was referred to a committee of the council.[48]

The council of the protectorate was much occupied with foreign affairs. As in the earlier period much that related to diplomacy and to negotiation and correspondence with foreign states was dealt with by the committee of the council for foreign affairs; but much of it also was handled

[43] S. P. D., Interregnum, I 76A, 30 March 1655.
[44] *Ibid.*, I 77, 16 May 1656.
[45] *Ibid.*, 14 August 1656.
[46] *Ibid.*, I 78, 27 July 1658.
[47] *Ibid.*, I 76, 26 July 1655.
[48] *Ibid.*, I 77, 15 July 1656.

by the council itself—more, perhaps, than in the earlier period, before 1640, when the foreign committee, under the king, was monopolizing more and more of the conduct of important foreign relations, and much more than after the restoration, when the privy council committee of foreign affairs engrossed important foreign business, then all other important business, and gradually as "the committee" or cabinet, superseded the privy council in effect.

The council, or more usually committees of the council, conferred with representatives of foreign powers. In 1654 the lord protector in council ordered that certain members of the council be commissioners to treat with the ambassador extraordinary from the French king, while others were to treat with the ambassador from Spain.[49] On another occasion the protector ordered three of the council to treat with the ambassador from Genoa.[50] In June 1655 the council arranged to meet again that afternoon to consider papers brought by the Spanish ambassador, Secretary Thurloe to have them ready.[51] A few days after, the council was to consider letters from France about distressed Protestants, who were subjects of the duke of Savoy.[52] In August at a council of nine, the protector present, a letter from Geneva to the secretary was read. "Ordered That a Letter be prepared by Mr Secry according to the sence of the present Debate to be sent to Mr Moreland." [53] At a meeting in May 1656, the secretary presented some letters from his highness's agent in Portugal. They were considered, and ordered to be further debated next morning.[54] On another occasion the council referred it to the commissioners of the admiralty and the navy, to consider and offer their opinion, whether an English consul should be appointed at Tetuan on the Barbary

[49] *Ibid.*, I 75, 4 April 1654.
[50] *Ibid.*, 23 January 1654-5.
[51] *Ibid.*, I 76, 5 June 1655.
[52] *Ibid.*, 8 June 1655.
[53] *Ibid.*, 2 August 1655.
[54] *Ibid.*, I 77, 5 May 1656.

Coast.[55] In 1657 the secretary presented a memorial from the duke of Courland to the protector; read, then referred to two of the council to consider fitting instructions to his highness's agent at Hamburg concerning the matter.[56]

Ambassadors from abroad were sometimes received with much entertainment and care. In August 1657 the council ordered Secretary Strickland to give directions about entertaining Don Francisco de Mello, ambassador from Portugal. He was to arrange for a house for the ambassador and a steward to serve him; two of the council to receive and conduct him to his lodgings; from the council's contingencies £300 to be paid for expense of the ambassador's diet; he to be allowed a diet of fifty dishes for the first and second course, and thirty of fruits and sweetmeats for each meal, with a convenient allowance for his attendants; seven meals at the state's charge to be given in the ambassador's entertainment; the plate required to be provided; twelve of the council's messengers to carry dishes and wait at the table.[57]

At a meeting of the council in 1657 the secretary was bidden to inform the Swedish resident and agent what he had just told the council concerning the English resident at Hamburg, communicating the sense of the council therein, and then report to the council.[58] A little later the council arranged an afternoon meeting to consider further a paper from the Portuguese ambassador.[59] In 1658 the secretary presented to the council letters from the English ambassador who had been sent to the king of France; and the letters were read.[60]

At a meeting in April 1658 the secretary reported various bills of exchange from public ministers abroad,

[55] S. P. D., Interregnum, cliii, 8 January 1656-7.
[56] *Ibid.*, I 78, 14 July 1657.
[57] *Ibid.*, 25 August 1657.
[58] *Ibid.*, 18 September 1657.
[59] *Ibid.*, 20 October 1657.
[60] *Ibid.*, 1 June 1658.

charged on a certain Martin Noel, for sums due on account of their negotiations—the envoy to Sweden about £ 1000, the ambassador to France £ 1000, the envoy to Denmark about £ 500, the resident in Holland £ 200: order thereupon to the treasury commissioners to pay to the treasurer of the council's contingencies, he to pay the agent; a committee of council to consider how best these sums and others might be paid, and report to the council.[61]

In connection with its work the council issued numerous orders and warrants, considered many petitions, and like the councils preceding allowed passes for going abroad. On one day in August 1655 the lord protector approved eleven orders of the council.[62] A great number of warrants was issued for the payment of money, or for ordering that something be done.[63] In February 1655 a letter from the commissioners of the treasury was read in the council, that £ 100,000 was required for the pressing needs of the navy. So the council advised his highness to issue warrants under the great seal for the commissioners of the treasury to pay to the treasurer of the navy £ 100,000 to carry on the service of the navy and the land stores.[64] In 1658, shortly after the death of Oliver Cromwell, the lord president of the council was authorized to issue warrants.[65] The council also issued many warrants allowing passes for persons desiring to go abroad.[66]

The council of the protectorate gave out many proclamations and declarations.[67] In 1657, at a council of ten, to which also came the protector, a proclamation set apart a day for solemn fasting and prayer: [68]

> His Highness the Lord Protector, and his privy Counsell takeing notice of the hand of God, w^ch^, at this

[61] *Ibid.*, 20 April 1658.
[62] *Ibid.*, I 76, 2 August 1655.
[63] *Ibid.*, I 75.
[64] *Ibid.*, 7 February 1654-5.
[65] *Ibid.*, I 84, col. 43.
[66] *Ibid.*, I 75, 16 March 1653-4, 30 March 1655.
[67] *Ibid.*, I 76A.
[68] *Ibid.*, I 78, 13 August 1657.

tyme, is gonne out ag^t this Nacon, in the present Visitation by Sickness, that is much Spread on the Land, wch calls upon the people of this Nacon to humble themselves in a Solemne manner before the Lord, and to seeke his face in reference thereunto.

The protector's privy council, like the other councils before it, gave orders to commit to prison. In 1656 the protector and seven councillors ordered that Colonel Matthew Allured be committed to the Isle of Man, and that Colonel Nathaniel Rich be kept prisoner at Windsor Castle.[69]

As always, there were many petitions to be dealt with. In 1654 "The humble petition of Mary Gernon the wife of Luke Gernon referred by his Highnesse to the Councell was this day read."[70] Many petitions came to the protector, he referring them usually to the privy council, while many others were addressed to the council itself. Sometimes considered in council, more frequently they were referred to committees appointed temporarily to examine them.[71] In 1655 a petition beautifully written to the lord protector was by him referred to the council with recommendation that the petitioner be satisfied.[72] In 1658 the council ordered the petition of certain merchants of London referred to the commissioners of the admiralty and the navy, they to consider and report to the council on the next Thursday.[73]

Evidently business connected with petitions encroached on the time of the council. The committee appointed to consider petitions was enlarged in September 1655.[74] Shortly after a standing committee of all the members of the council, or any three of them, was appointed to

[69] S. P. D., Interregnum, I 77, 14 August 1656.
[70] *Ibid.*, I 75, 10 March 1653-4.
[71] *Ibid.*, I 121.
[72] *Ibid.*, xcvii, 25 May 1655.
[73] *Ibid.*, clxxxiii, 19 October 1658.
[74] *Ibid.*, I 76, 25 September 1655.

consider all petitions addressed to the council, by reference from the protector or otherwise, and deal with them in order, unless special direction of the council to the contrary was given. This committee was to have the room adjoining the council chamber. The council set aside every Thursday to receive the committee's report.[75] From time to time, however, particular petitions were otherwise dealt with. In 1656 the petition of certain merchants of Bristol was referred by the protector to the council, and by the council to a committee of four of the council's members.[76] At a meeting of the council about this time, "On the Question put whether the Counsell shall sitt to morrow for heareing of Reports on private petic̄ons It passed in the Negative."[77] On another occasion it was arranged that the reports prepared by the committee of the council for petitions should be considered on the following Tuesday.[78]

At a meeting of the protector and eleven of the council in August 1655, a certain one who had been summoned was questioned whether he had penned and dispersed a paper entitled "the humble peticon of the ffreeholders and other welaffected people of this Com̄onwealth etc." He admitted having written it, as a lawyer in behalf of clients for whom he was counsel about some of the particulars mentioned. When he had learned that the petition was disliked, however, he had stopped distribution of the printed copies. He was commanded to withdraw. "And being againe called in his Highness did sharpely reproue him for diverse passages in the Peticon being against the Governmt and Comaunded him to proceed noe further in this busines." He was ordered to call in all the papers put out, and deliver those which he had to the council.[79]

[75] *Ibid.*, 1 November 1655.
[76] *Ibid.*, 31 January 1655-6.
[77] *Ibid.*, 18 January 1655-6.
[78] *Ibid.*, I 78, 20 August 1657.
[79] *Ibid.*, I 76, 14 August 1655.

CHAPTER XIV

THE LATER COUNCILS OF STATE

It is well known that during the interregnum radical innovation was followed by reaction back towards what had earlier been abandoned. At the beginning of the revolution king and privy council were contemned, disliked and opposed, and presently both of them were for the time being abolished. During this time parliament strove to manage all things. At first it did the executive part of its tasks through a committee of safety, composed of members of parliament, afterwards through various parliamentary committees, of which the principal and presiding one was the committee of members from both houses of parliament. This group, when it was associated with commissioners from Scotland, made the principal part of the committee of both kingdoms; afterwards, when united action between England and Scotland was possible no longer, it was the committee of both houses. As the revolution went still farther, after kingship and the house of lords had been abolished, and a republic established, then the remnant of the house of commons, styling itself parliament, arrogated all the functions of government, carrying on administrative and executive work through various committees of itself, but especially through successive councils of state, which were for the most part powerful committees of the principal members of the Rump or of the nominated parliament that followed.

By 1653 this system had so far failed that the army was able to overthrow it without any repining by most

of the people, and substitute for a government engrossed altogether by parliament a system much like that which parliament and army had overthrown a few years before. Under the protectorate now established a parliament of one house, later of two, existed, but as subordinate and unimportant as ever it had been in the time of Charles I. A king was desired by many, and while the name itself was not yet revived, a powerful executive was established, vested in a single person, a lord protector, in many respects more powerful than either of the Stuart monarchs had been. The power of the protector was limited, as in effect that of the kings had been, not by parliament but by the council, known at first as the protector's council, presently by the older term, privy council. This system lasted from December 1653 until May 1659, and led naturally enough, as it afterwards seemed, to the restoration of kingship, privy council, and parliament in 1660.

Before the restoration, however, there was another reversion to what had earlier prevailed. The protectorate was brought to an end; for a short time the army and Long Parliament undertook to rule England once more; and instead of lord protector and his privy council again was seen parliament with executive power wielded first by a committee of safety appointed by parliament and then by three successive councils of state like those of the commonwealth period or like the preceding committee of the houses. This committee of safety and these councils of state were composed of members of parliament and others, they who were not of parliament making up a larger part of the councils of state than had been the case in the earlier commonwealth time.

So great was the trouble and confusion of these twelve months that what took place has interest for the historian rather than for the student of the development of institutions, since the institutions then established

were unstable and generally had no more than the shadow of power. Yet such as they were they constituted the government of England during the year before the return of Charles II, and they are interesting if not important in a cycle of English conciliar institutions.

Neither the temperament nor the abilities of Richard Cromwell, the new lord protector, enabled him to sustain the load that had crushed his father. Oliver Cromwell's authority had rested essentially on the support of the army. It was afterwards evident that only he could control it. Richard steadily lost the respect of the principal commanders, and the soldiers soon looked to the various commanders rather than to him.

In January 1659 a correspondent writing from Normandy said: "Richard Crom^{wll} is said to haue kept himselfe verie close in white Hall since his being made Prot^{r}, he being it is beleived affraid to stirre abroade."[1] Oliver Cromwell had sometimes found it difficult to hold in check the abler and more ambitious leaders of the army. They were quick now to see their opportunity and seek more authority in the government than the system of the protectorate was designed to allow. Accordingly, they desired the system to be changed.

In February the French ambassador reported that limitation of the protector's authority was being discussed—depriving him of veto on parliamentary votes, and appointment of his council by the house of commons.[2] Fleetwood, Desborough, Sydenham, members of the protector's privy council, were active in efforts to depose him.[3] In the spring of 1659 Fleetwood and several of the officers went to the protector and told him he must at

[1] F. M[ompesson] to M. Jehan Nekles [Sir Edward Nicholas], 13/23 January 1658-9: S. P. Foreign, France, cxiv. 21.

[2] M. de Bordeaux to Cardinal Mazarin, 27 February 1659 (N. S.): Guizot, i. 309.

[3] *Cal. S. P. D., 1658-1659,* preface, p. xv.

once sign a bill or order to dissolve the parliament of the protectorate then existing. Richard wished the advice of his council, but he was not permitted to ask it, and he was obliged to sign the order required. The protector tried to secure Whitehall and other places with soldiers, but this failed, for his opponents gained them over. The message was then sent by the Black Rod, who told the upper house and bade them communicate it to the other house. They may have been warned by the protector, for they would not let the messenger enter. None the less the proclamation dissolving parliament was published, and members of the lower house were excluded by soldiers on guard at the doors.[4] The officers of the army, masters of the situation, resolved to invite back what contemporaries were calling the Long Parliament.[5] They had at first, apparently, designed to change the government only a little. They now began to think of taking away the protector's power altogether, and thus of bringing the protectorate to an end. The Rump, or what had constituted parliament under the commonwealth, was recalled. 6 May, Lambert and other officers delivered to some of the members a declaration. 7 May, the Long Parliament thus revived was reopened, and the declaration inviting them was read. Then parliament appointed

Lord Fleetwood
Sir Arthur Haselrig
Sir Henry Vane
Lieutenant General Ludlow
Colonel Sydenham
Major Salwey
Colonel John Jones

[4] S. P. Foreign, France, cxiv. 230.
[5] "Le Long parlement": *ibid.*, fo. 241.

or any four of them "a Committee of Safety, with full Power to take especial and effectual Care of the Preservation of the Peace and Safety of this Commonwealth." [6] This body was similar to the committee of safety established by the Long Parliament in 1642, save that the earlier body had contained members from the lords as well as from the commons, and that it had contained members of parliament solely. Of the committee of safety of 1659 only two members, Fleetwood and Sydenham, had been on Richard Cromwell's privy council. "I find," said a correspondent, "the french Ambassad[r] hath writt hither that he knows not who to adresse himselfe too in England at pñt, by wch I perceive the Councell of State acts noe more, all this being as wee heare done by the Councell of the Officers who take thereunto whome they think fitt to Joyne with." [7] 9 May, four others were added:

Lord Lambert
Colonel Desborough
Colonel Bury
Mr. Scot

of whom Desborough had been a member of the protector's privy council.[8] The committee of safety now consisted of eleven members.[9]

The committee of safety was constituted at first for eight days, but its tenure was afterwards extended. All officers, soldiers, and ministers of justice must obey its orders. It was to sit when and where its members deemed fitting. Parliament also gave it power to direct warrants to those holding revenue of the state, for money which it deemed necessary for the commonwealth's service.[10] Such

[6] *C. J.*, vii. 646.

[7] [Earl of Inchiquin] to the countess of Dysart, Paris, 8/18 May 1659: S. P. Foreign, France, cxiv. 246.

[8] S. P. D., Interregnum, I 91, 9 May 1659.

[9] *Ibid.*, cciii, 9 May 1659.

[10] *Ibid.*, I 91, 7, 9 May 1659.

of the committee as were members of parliament were at the same time ordered to consider of qualified persons fit to be chosen for civil and military employments and report to parliament their names.[11] The next day such members of the committee as were of parliament were ordered to suggest persons to be appointed commissioners of the great seal, judges of the several benches in Westminster Hall, barons of the exchequer, judges of the admiralty, and judges for probate of wills.[12]

For a moment parliament and the committee of safety governed England, under shadow of the army. 11 May, at a meeting of the committee it was resolved that the war with Spain was illegal, that the peace with Holland was unlawful, that none who had been for the king should have any interest in church or state, that the officers of the army should bring in account of all officers faithful until the time when the Long Parliament was broken.[13] At the same time parliament ordered the committee to raise auxiliary forces sufficient to secure the peace of the nation, continue them as long as was necessary, not exceeding a month, and issue money to raise and pay them, not exceeding £ 5,000. The committee was empowered to search for disaffected persons and seize them. It was also speedily to consider how to constitute in the several counties a militia of persons of approved fidelity.[14] 18 May, parliament ordered " That the Committee of Safety continue till *Monday* next, unless the Council of State sit, in the mean time." [15] The new council now talked of was soon set up, but the committee continued to function. Minutes of the meetings of the committee remain for the period 13 June to 7 October 1659, the committee con-

[11] *Ibid.*, 9 May 1659.
[12] *Ibid.*, 10 May 1659.
[13] S. P. D., Interregnum, cciii, 11 May 1659.
[14] *Ibid.*, I 91, 11 May 1659.
[15] *C. J.*, vii. 658.

sidering at these meetings who were fit persons to hold places of trust or positions in the army.[16]

An observer recounted that parliament—as five or six years before—now governed all. A proclamation had been issued that he who was called protector should be called only My Lord Richard. The son of the mighty Oliver was stripped of his power and received nothing. At first the army officers had proposed that all the debts contracted by Richard Cromwell or by his father since 15 December 1653 should be satisfied; that £ 10,000 a year with a convenient house should be settled on Richard and his heirs forever; that £ 10,000 a year more should be settled on him for life; that £ 8,000 a year should be settled on his mother for life, " as a mark of the high esteem this Nation hath of the good service done by his father." [17] A correspondent reported that there had been talk of giving him Hampton Court or Somerset House and £ 20,000 a year, but he had refused. He was to leave Whitehall at once, giving it up to some of the gentlemen of parliament.[18] 25 May, a letter from Richard Cromwell was read in parliament. " I love and value the peace of this Cōmon wealth much aboue my owne gouernmn^{t} ", he said. He acquiesced in his deposition and the changes which parliament had made. He expected protection from the new government and enclosed a statement of his debts. Parliament seemed to take his words in good part, assuming the debts exhibited in his statement, but declaring it well that he should leave Whitehall and go to his private concerns.[19]

[16] S. P. D., Interregnum, I 127.

[17] *The Humble Petition and Addresse of the Officers of the Army, to the Parliament,* etc. (London, 1659), pp. 11, 12: in *ibid.,* cciii. 5.

[18] [M. de Vaux] to the marquis du Chastel, London, 12/22 May 1659: S. P. Foreign, France, cxiv. 252.

[19] S. P. D., Interregnum, I 91, 25 May 1659.

Members of the Long Parliament seemed to believe that the commonwealth overthrown when Cromwell turned the Rump out of doors was being reëstablished. There would be no king, no protector, no house of lords, but merely a parliament of one house ruling a republic.[20] The army leaders were determined to have more authority in the new government than they had previously had, and they favored creation of an upper house or council controlled by themselves. With respect to the government they proposed "That . . . the Legislative Power thereof may be in a Representative of the People, Consisting of a House successively chosen by the People, in such way and manner as the Parliament shall judge meet; and of a select Senate, Co-ordinate in power, of able and faithful Persons, eminent for godliness, and such as continue adhering to this Cause." Further, "That the administration of the Executive Power of Government may be in a Council of State, consisting of a convenient number of persons qualified in all respects as aforesaid." [21] In April 1659 Mazarin's well-informed agent wrote that the army was going to establish an entirely new council of state.[22] A little later he declared that the superior officers aimed at the establishment of a senate composed of themselves, but that the inferior officers wanted a commonwealth governed by successive parliaments, and in the intervals between parliaments a council of state appointed with power to execute the laws and statutes.[23] 9 May, parliament referred it to a committee

[20] "La chambre basse ont voté quils ne veulent point estre Gouverné par Roy ny Maison hautte, c'est a dire Seigrs ny par une persone seule, c'est a dire mons; le Prot: mais un Parlement cela veut dire asseuré que nous aurons une Republique." [M. de Vaux] to the marquis du Chastel, London, 12/22 May 1659: S. P. Foreign, France, cxiv. 252.

[21] *The Humble Petition and Addresse of the Officers of the Army*, etc., pp. 10, 11.

[22] M. de Bordeaux to Cardinal Mazarin, 24 April 1659 (N. S.): Guizot, i. 363. [23] Bordeaux to Mazarin, 29 May 1659 (N. S.): *ibid.*, p. 391.

of those who were of the committee of safety to inform themselves concerning the powers which the late council of state had by authority of parliament and to consider what was the fit number of members of a future council of state.[24] Two days later the committee of safety approved twelve propositions to be submitted to parliament—mainly abstracts of those which had been presented by the officers of the army. One of them: "A Councill of State be chosen in the Interualls of prliament for the executiue parte." [25]

13 May parliament drew up instructions and rules for a council of state. It was to last from 17 May until 1 December; it should consist of thirty-one members, of whom ten were not to be members of parliament; nine to be the quorum, including six who were members of parliament.[26] That day and the next parliament chose the members.[27] The ten not in parliament were:

Lord Fairfax
Major General Lambert
Colonel Desborough
Colonel James Bury
Serjeant Bradshaw
Sir Anthony Ashley Cooper
Sir Horatio Townshend
Josias Barners
Sir Archibald Johnson
Sir Robert Honywood

The twenty-one who were members of parliament were:

Sir Arthur Haselrig
Sir Henry Vane
Lieutenant General Ludlow

[24] *C. J.*, vii. 646. [25] S. P. D., Interregnum, cciii, 11 May 1659.
[26] *C. J.*, vii. 252; S. P. D., Interregnum, I 91, 19 May 1659.
[27] *C. J.*, vii. 652, 654, 655.

Lieutenant General Fleetwood
Major Salwey
Colonel Morley
Mr. Scot
Mr. Wallop
Sir James Harrington
Colonel Walton
Colonel John Jones
Colonel Sydenham
Colonel Sydney
Mr. Henry Nevil
Mr. Thomas Challoner
Colonel Downes
Oliver St. John, lord chief justice
Colonel Thompson
Lord Commissioner Whitelock
Colonel Dixwell
Mr. Reynolds

Parliament ordered a seal to be prepared for the council of state.[28] The draft of an oath for the members was prepared, though presently Fleetwood and Sydenham were admitted merely on their promise to act in accordance with the oath.[29] Then a bill was passed constituting this ninth council of state.[30]

Instructions were given to the council by parliament, as formerly instructions had been drawn up for the earlier councils of state. The members of the council were to oppose and suppress whoever undertook to maintain the pretended title of Charles Stuart, the title of any of his relations, or of any single person to the crown of England, of Scotland, or of Ireland. To all the militia forces by land or by sea they were to give orders for preserving the peace and for suppressing risings or tumults or for-

[28] *Ibid.*, pp. 655, 663; S. P. D., Interregnum, I 91, 19 May 1659.
[29] *C. J.*, vii. 656, 664.
[30] *Ibid.*, pp. 656, 658, 659.

eign invasions. In emergency they were to raise and arm additional forces and give to the officers commissions under the seal of the council. They were to supervise the military and the naval stores. They were to see to the repair of ships and the building of new ones. They were to try to advance trade in England, in Scotland, in Ireland, promote the welfare of the foreign factories and plantations, and watch over the state's interests in foreign parts. They were to direct the renewing or preserving of amity with foreign states, preserve the rights of the realm, and send necessary messengers or agents abroad. They were to consult together on matters of public concernment, and report their opinion to parliament. They were to summon to appear before them those from whom they wished testimony or advice. They might send for any public documents they wished to consult concerning matters pending before them. In emergency they might administer oaths for discovery of the truth. They might imprison or secure by bond and sureties any offenders against these or other instructions and all who disobeyed their orders. They might charge the public revenue, by warrant under the seal of the council, with sums necessary to defray charges of foreign negotiations and for the salaries of their officers and attendants. They were to execute all the orders received from parliament. They might appoint committees or persons to take examinations, receive information, or to prepare business for their debates or resolutions. They were to meet at Whitehall, 19 May 1659; afterwards when and where they thought fitting. At due seasons they were to order the felling of timber for ships, and sell what was not needed. They were to prevent meetings dangerous to the state. They were to take care of the public library at St. James. They were to give warrants for issue of the residue of money from the sale of fee-farm rents. They were to

prevent free quarter and other abuses of the people by short marches of soldiers. They were to charge all warrants on the treasury upon the respective treasurers, according to previous instruction, entering them in a book, with an abstract of the disbursements made, and deliver it to parliament, stating the gross sum for intelligence. All warrants to imprison or for the issuing of money were to be signed by five or more members. They were to encourage and promote the fisheries.[31] The oaths or engagements prescribed for members of the councils of state during this period reflect the swiftly changing complexion of politics in a time of metamorphosis and stress. The members of this council were to take an oath to maintain the commonwealth as declared by parliament, "without a single person Kinship or house of peeres."[32]

The record of the activities of the Long Parliament now reassembled consists very largely of the referring of matters to the council of state which it had set up.[33] Parliament at once referred it to the council to consider how far the commonwealth was concerned either in peace or war with foreign nations by transactions since the interruption of the Long Parliament, 20 April 1653; "And to take Care in what is done from tyme to tyme by the Councell in pursuance of their Instructions in reference to fforreigne States, that this Comonwealth bee not engaged in a Warr wthout the Consent of Parlament."[34] 23 June the council's power to issue money for the carrying on of public affairs was continued by parliament for a month longer, and this power was renewed for a month 25 July, 26 August, and 4 October.[35] In October the council was empowered and required by parliament to command all books and papers of public concern from any

[31] S. P. D., Interregnum, I 91, 19 May 1659.
[32] *Ibid.*
[33] *Ibid.*, I 91.
[34] *Ibid.*, 19 May 1659.
[35] *C. J.*, vii. 692, 729, 769, 791.

person or persons whatsoever, and dispose of them as the councillors should think fit for the use of parliament and the state.[36]

The scanty records now remaining permit few definite statements to be made about activities and procedure of the ninth council of state. 19 May 1659 the council appears to have held its first meeting. The members were sworn, a president chosen, a clerk appointed, certain petitions were read, and certain matters debated. A committee was probably appointed to confer with the Dutch ambassador and another to confer with the minister from Denmark.[37] Rules for the council's routine and proceedings seem to have been considered or adopted at the end of May.[38] From figures compiled on the basis of warrant signatures—these figures accordingly conjectural—it has been supposed that attendance of most of the members was poor; that during May and June some twenty meetings were held.[39] In August the president summoned the earl of Elgin, the council wishing to speak with him at once on very important business.[40] Shortly after the council considering the weighty and extraordinary business that was in Lieutenant General Fleetwood's care, ordered that he " be excused of being President of the Councell in his Turne." Sir Arthur Haselrig was desired to take the chair for the next fortnight, and Sir Henry Vane was asked to act as " Lo. President of the Councell " for the morning, to sign warrants, commissions, and the like.[41] In October, at a meeting of eighteen of the members, the question was proposed: " That as the Condition of affaires now are [*sic*] the Councell haveing

[36] *C. J.*, vii. 795.
[37] S. P. D., Interregnum, I 85, cols. 1, 11, 18, 29, 42, 59.
[38] *Ibid.*, col. 63.
[39] *Cal. S. P. D., 1658-1659*, preface, p. xxiv.
[40] S. P. D., Interregnum, I 98, 5 August 1659.
[41] *Ibid.*, I 79, 17 August 1659.

taken Consideration thereof, have thought fitt from the tyme of their now sitting to adjourne unto the last Saturday of Novembr next, and doe order that this Councell be then adjourned accordingly." But this was voted down.[42]

Conflict between parliament and the army was shortly resumed. 13 October 1659, the principal officers of the army whose commissions had just been vacated, that is to say, the faction led by Lambert and his associates, assembled forces in Westminster and thereabouts. They obstructed all the passages by land and by water, stopped the speaker on his way, placed guards about the doors of parliament house, and interrupted the assembling of members. Parliament did not meet again until 26 December.[43] With this new expulsion of the Long Parliament by the army the ninth council of state collapsed.

At first the officers of the army had sought an agreement with parliament that would give them greater power in the government. After various overtures they resolved to establish a council of twenty-three persons, including Fleetwood, Desborough, Lambert, and Sir Henry Vane, of whom ten were to be colonels, three citizens of London, and the others members of the preceding council or of the council of the protector. This was to be a provisional council, until a larger number could be chosen. With such a scheme Monk would have nothing to do, renewing assurance that he was faithful to parliament.[44] A little later, after other negotiations, it was proposed to govern the three nations as a free state or a republic without king, house of lords, or any single ruler, establishing a council of nineteen persons, of whom ten should be moderate Presbyterians chosen by deputies

[42] *Ibid.*, 15 October 1659. [43] *C. J.*, vii. 797.

[44] M. de Bordeaux to Cardinal Mazarin, London, 3 November 1659 (N. S.): Guizot, ii. 272.

from Monk's army and the army in England, and the other nine chosen from the three armies in England, Scotland, and Ireland.[45] But in the midst of confusion and disagreements nothing was accomplished, and soon the supporters of parliament recalled the Rump a second time.

When parliament met again it declared its approval of what had been done by members of the council of state and those working with them, who had acted for the service of parliament during the time of the recent interruption. "And that the hearty Thanks of this Hous be given unto them, for their good and faithful Service done for the Parliament and Commonwealth." [46]

It proceeded, however, to constitute a tenth council of state. 29 December, it resolved that a council of thirty-one should be nominated, of whom ten were not to be members of parliament.[47] 31 December, the twenty-one members, chosen from parliament, were selected: [48]

Sir Arthur Haselrig
Mr. Herbert Morley
Mr. Wallop
Colonel Walton
Mr. Thomas Scot
Mr. Nicholas Love
Oliver St. John
Colonel White
John Weaver
Robert Reynolds
Sir James Harrington
Sir Thomas Widdrington
Colonel Thompson
Mr. John Dixwell

[45] Bordeaux to Mazarin, London, 27 November 1659 (N. S.): Guizot, ii. 289.
[46] *C. J.*, vii. 799.
[47] *Ibid.*
[48] *Ibid.*, p. 800.

Mr. Henry Nevill
Colonel Fagg
Mr. John Corbet
Mr. Thomas Challoner
Mr. Henry Martin
Mr. William Say
Luke Robinson

Two days later, the other ten members, not of parliament, were chosen: [49]

Sir Anthony Ashley Cooper
Josias Barners
General Monk
Vice Admiral Lawson
Alderman Love
Mr. Tirrill
Lord Fairfax
Alderman Foote
Robert Roll
Slingsby Bethell

An act was passed at once embodying instructions for the council. The quorum to be nine, six of them members of parliament. The period of the council to be from 1 January to 1 April 1660. In addition to other powers the council was to have and exercise all the powers and authority previously held by the lord wardens or commissioners of the Cinque Ports and by the constables of Dover Castle. It was authorized to disband any militia or volunteer forces raised by authority of the former council of state, or raised since 12 October by any other order or pretended authority.[50]

For the tenth council of state a new oath was prescribed: [51]

I *A. B.* do hereby swear, That I do renounce the pretended Title or Titles of *Charles Stuart*, and the

[49] *Ibid.*, p. 801. [50] *Ibid.* [51] *Ibid.*

whole Line of the late *King James*, and of every other Person, as a Single Person, pretending, or which shall pretend, to the Crown or Government of these Nations of *England*, *Scotland*, and *Ireland*, or any of them, and the Dominions and Territories belonging to them, or any of them: And that I will, by the Grace and Assistance of Almighty God, be true, faithful, and constant to the Parliament and Commonwealth; and will oppose the bringing in, or setting up any Single Person, or House of Lords, and every of them, in this Commonwealth.

The terms of this oath alone made it necessary to constitute another council of state when restoration of monarchy was presently resolved on.

The members of the council took the oath and held their first meeting 3 January. A president and a treasurer of the council's contingencies were appointed, and a committee of the council appointed to secure lodgings in Whitehall.[52] About the end of January it was resolved: "Harrington Sr James to be Ld Presid^{t}" [53] In February an engagement to be taken by the members of the council was substituted for the oath of renunciation: "That I *A. B.* do promise and declare, That I will be true and faithful to the Commonwealth of *England*, and the government thereof, in the way of a Commonwealth and Free State, without a King, Single Person, or House of Lords." [54]

The council sat for seven weeks. Apparently there were some twenty-six meetings.[55] The record of its activities is scanty and uncertain, little but the index books of lost record books now remaining. Many matters that concerned parliament were by parliament re-

[52] S. P. D., Interregnum, I 86, cols. 4, 9, 20, 28.
[53] *Ibid.*, col. 11.
[54] *C. J.*, vii. 843, 845.
[55] *Cal. S. P. D., 1659-1660*, preface, p. xxiii.

ferred to the council. Frequently the council was bidden to examine certain persons.[56] The council was instructed to consider how the civil power and authority might be settled in Ireland, and how the army there was to be governed.[57] Parliament ordered the council to take charge of the postmaster's office, and manage it to the best advantage of the state, calling to an account those who had received the profits of the office, and then submit to parliament a report.[58]

Great political events meanwhile were affecting the parliament and its council. In January the council wrote General Monk a letter of thanks, assigned him lodgings in Whitehall, allowed him ten pounds a day for his table, and appointed a committee to advise him and to attend him, the commissioners receiving £200 for the great man.[59] Shortly after, parliament authorized and enjoined the council to arrest several army officers, among whom were Lambert and Desborough, members of the council of state preceding. The council was to see to it likewise that all other persons against whom orders or warrants had been or should be issued by parliament or by the council of state, should depart to their houses in the country. It was to proceed against those who had not departed or who had not given ready obedience to the orders.[60] A little later occurs the note: "Lambert Lord to repaire to his house furthest of in the Countrey."[61] Early in February it was ordered by parliament "That it bee referred to the Councill of State to examine the whole businesse touching the Tumults wch happened last night in the Citty of London, and State matter of ffact

[56] S. P. D., Interregnum, I 91, 2 January 1659-60.
[57] *Ibid.*, 5 January 1659-60.
[58] *Ibid.*, 7 January 1659-60.
[59] *Ibid.*, I 86, col. 17.
[60] *Ibid.*, I 91, 14 January 1659-60.
[61] *Ibid.*, I 86, 23 (?) January 1659-60.

and reporte their opinion what is fit to bee done therein and how to p[r]vent the like tumults for the future." [62]

Confusion and unsettlement rapidly increased. Some members of parliament attempted to institute a new committee of safety.[63] 21 February, the Presbyterian members, excluded ten years previously, before the trial of the king, and now at last, in deference to the wishes of the people of London and of many other people invited by Monk to resume their places, once more took their seats. In parliament constituted thus the members of the old Rump were in a minority. Accordingly, at once it was decided in parliament that the votes of 1648-9 be vacated, along with a resolution of parliament of 5 January 1659-60 confirming those former votes. It was determined that all the orders given by the council of state since the previous Saturday should be communicated to General Monk, that without his approbation there should be no proceedings upon the said orders, and that the powers of the council of state should be suspended until further order.[64] Actually restoration of the Stuarts had now been decided. Accordingly parliament proposed to supersede the tenth council of state, whose members had sworn to oppose a Stuart king or any executive in a single person, with a new council. It was ordered that an act constituting a new council should be introduced.[65] That day one of the members announced: "That he had given Notice, to the Council of State, of the Order of this House for suspending the Council of State, according to the Command of the Parliament: And that ready Obedience will be yielded thereunto." [66]

The eleventh and last council of state was constituted at once. 21 February, parliament resolved that the coun-

[62] S. P. D., Interregnum, I 91, 3 February 1659-60.
[63] *C. J.*, vii. 841.
[64] *Ibid.*, pp. 846, 847.
[65] *Ibid.*, p. 847.
[66] *Ibid.*

cil should consist of thirty-one members, of whom General Monk should be one.[67] It had previously been agreed that parliament should sit only a few days, during which time it should issue writs for the election of a new parliament, and that a new council of state should be chosen.[68] 22 February, it was resolved that a new parliament should be summoned for 25 April 1660.[69] Next day the members of the new council besides Monk were chosen. They were:[70]

William Pierrepoint
John Crew
Colonel Rosseter
Richard Knightley
Colonel Popham
Colonel Morley
Lord Fairfax
Sir Anthony Ashley Cooper
Sir Gilbert Gerrard
Lord Chief Justice St. John
Lord Commissioner Widdrington
Sir John Evelyn
Sir William Waller
Sir Richard Onslow
Sir William Lewis
Colonel Edward Montagu
Edward Harley
Richard Norton
Arthur Ansley
Denzil Hollis
Sir John Temple
Colonel George Thompson

[67] *Ibid.*

[68] M. de Bordeaux to Cardinal Mazarin, London, 2 March 1660 (N. S.): Guizot, ii. 359.

[69] *C. J.*, vii. 848.

[70] *Ibid.*, p. 849.

John Trevor
Sir John Holland
Sir John Potts
Colonel John Birch
Sir Harbottle Grimston
John Swinfin
John Weaver
Serjeant Maynard

It was proposed, a contemporary says, to call some of the nobles to this council, but they, hoping that the house of lords would be reëstablished, gave the government to understand that it would injure their prerogative to accept.[71] It was the intention of Monk and his fellows that this council should govern England during the period between the dissolution of the Long Parliament and the assembling of the new parliament in April.[72] Parliament, drawing up instructions for the council, ordained that it was to continue "until the Parliament take further Order."[73]

The oath, drawn up by the councillors, approved by parliament, and added to the council's instructions, was an ordinary councillor's oath, little like the political engagements recently prescribed:[74]

> I, *A. B.* do promise, in the Sight of God, That I will be true and faithful in the Trust committed to me in my Employment under the Council of State; and that I will not reveal or disclose any thing, in Whole or in Part, directly or indirectly, that shall be debated or resolved upon in the Council, and ordered to be kept secret by the said Council, without the Command, Direction, or Allowance, of the Parliament, or Council.

[71] Bordeaux to Mazarin, London, 4 March 1660 (N.S.): Guizot, ii. 365.
[72] Bordeaux to M. de Brienne, London, 8 March 1660 (N. S.): *ibid.*, p. 368.
[73] *C. J.*, vii, 852.
[74] *Ibid.*, p. 854.

Large powers were entrusted to the members of this council. In case of special emergency they might seize and secure any person or persons suspected, even though the persons arrested were members of parliament.[75] This, as the French representative might well observe, was "contrary to all usage."[76] In addition to other instructions, the council was to have the ordering of all houses, forests, chases, and parks belonging to the commonwealth, with the disposing of the timber, to the commonwealth's best advantage.[77] A little later parliament enjoined that the council should take special care of the peace and the safety of the nation, proceeding vigorously to secure those whom they thought dangerous to the nation. Against them the council might issue proclamations until the next parliament sat.[78] Until parliament assembled the council might issue its warrants to the commissioners of the great seal, authorizing them to pass under the great seal commissions for foreign ministers employed by the commonwealth. The council might also liberate persons imprisoned for crimes against the state.[79] Meanwhile the council nominated and the parliament appointed two secretaries of state: John Thompson and Thurloe.[80] The latter had been thoroughly identified with the rebellion and with the government of Cromwell, and he had organized an admirable and effective secret service. "Thurloe is made Secretary to the councell," said a cipher letter directed to one abroad.[81]

Meanwhile the Long Parliament, though protracting its existence beyond what had been hoped and desired, was preparing its end. 1 March, it resolved that the time

[75] *Ibid.*

[76] Bordeaux to Brienne, London, 8 March 1660 (N. S.): Guizot, ii. 370.

[77] *C. J.*, vii. 857.

[78] *Ibid.*, pp. 864, 875.

[79] *Ibid.*, pp. 877, 878.

[80] *Ibid.*, p. 855.

[81] Col. Herbert Pine to [Sir Edward Nicholas], 9/19 March 1659-60: S. P. Foreign, Flanders, xxxiii. 29.

of its dissolution should be on or before 15 March.[82] 16 March, it sat for the last time. It granted £20,000 to General Monk "for his eminent Services," then resolved that that day should see its dissolution. Last of all: "*Resolved*, That *Friday*, the 6th Day of *April* 1660, be set apart for a Day of publick Fasting and Humiliation, to be solemnized throughout the Nation, under the Sense of the great and manifold Sins and Provocations thereof; and to seek the Lord for his Blessing upon the Parliament, now shortly to be assembled, that the Lord will make them Healers of our Breaches, and Instruments to restore and settle Peace and Government in the Nations, upon the Foundations of Truth and Righteousness." [83]

During the next six weeks the established government of England, so far as one remained, was vested principally in the council of state. During March it held twenty sittings, during April twenty-one, during May sixteen.[84] The Convention Parliament assembled 25 April 1660.[85] Then the authority of the last council of state virtually ended, though for a while longer it continued to sit. Its business, however, was no longer important. Parliament was now rapidly restoring the old system. 1 May, the house of lords asserted: "That the Lords do own, and declare, that, according to the ancient and fundamental Laws of this Kingdom, the Government is, and ought to be, by Kings, Lords, and Commons." [86] The same day the commons: "That this House doth agree with the Lords; and do Own and Declare, That, according to the antient and fundamental Laws of this Kingdom, the Government is, and ought to be, by King, Lords, and Commons." [87] Preparations were now being made to receive the king. The commons ordered that the lord president of the coun-

[82] *C. J.*, vii. 857.
[83] *Ibid.*, pp. 879, 880.
[84] *Cal. S. P. D., 1659-1660*, preface, pp. xxiii-xxvii.
[85] *C. J.*, viii. 1.
[86] *L. J.*, xi. 8.
[87] *C. J.*, viii. 8.

cil of state should attend the proclaiming of the king, that his mace should be carried before him, and that he should go next to the speaker of the house of commons.[88] 16 May, the lord president, Annesley, gave to the commons a statement of the sums charged by orders or warrants of the council upon the several treasuries, 25 February to 15 May 1660. They were at once approved, and the sums ordered to be paid.[89] Then, it being resolved that the council should have the thanks of the house, the speaker said: "Gentlemen, You of the Council of State, that are Members of this House, (and you are desired to communicate it to the rest) the House have taken Notice of your great and careful Services; and they do give you their very hearty Thanks."[90] Thus came to its end the eleventh and last of the councils of state, substitute under the commonwealth, for the privy council. Perhaps, the name may have lingered on a little longer, for the French representative writing some weeks later of the first meeting of Charles's privy council, spoke of it as the council of state.[91] This, however, may have been no more than application to an English institution of a phrase familiar in French usage, after the manner not only of French but of Spanish ambassadors in the time of James I.

The work of these last councils of state under the restored commonwealth was, so far as the unusual time permitted, much like that of the councils of state of the earlier period, and something like that of the privy council of the protectors. The members dealt much with matters referred to them by parliament, they handled much business concerning finance, army, navy, domestic and local affairs, plantations, and foreign relations; they considered petitions and issued orders and warrants.

[88] *Ibid.*, p. 18. [89] *Ibid.*, pp. 27-31. [90] *Ibid.*, p. 31.
[91] Bordeaux to Mazarin, London, 10 June 1660 (N. S.): Guizot, ii. 439.

In May 1659 the council represented to parliament that the power given the committee of safety to issue money having lapsed, there was no means of paying the army and the navy and providing for other demands. It was accordingly resolved that power be given to the council to charge any public revenue of the commonwealth with such moneys as it judged necessary for requirements on land and on sea, for one month.[92] Several times was this power renewed. Somewhat later the council ordered that money raised by the excise should be divided, and paid to the treasurers of the navy and of the army.[93] On another occasion a committee of the council was appointed to consider the question of money, "how it may be had."[94] Again, acts, instructions, and commissions for the treasury were passed and ordered to be reported to parliament.[95]

There was much less about the army and the navy than before. In May 1659 parliament referred it to the council to take care that more ships were fitted out for sea.[96] The council gave many orders for paying soldiers, distributing powder and arms, and for other things connected with the army. On one occasion it directed the committee of safety to consider how all the armed forces might be united, to consider what troops might be sent into Kent and Surrey, and also to prepare instructions for Lambert.[97] On another occasion the council directed the admiralty commissioners to order certain frigates to lie before Ostend and Nieuport.[98] At another time parliament referred it to the council of state to prepare and bring into the house various commissions, one constituting Fleetwood lieutenant general and commander-in-chief of the land forces and the others for six other commissioners.[99]

[92] *C. J.*, vii. 667.
[93] S. P. D., Interregnum, I 85, col. 49.
[94] *Ibid.*, col. 48.
[95] *Ibid.*, col. 76.
[96] *Ibid.*, I 91, 26 May 1659.
[97] *Ibid.*, I 85, col. 71.
[98] *Ibid.*, col. 1.
[99] *Ibid.*, I 91, 31 May 1659.

In January 1660, apparently, three letters from the navy commissioners about defects in the stores were ordered to be reported to parliament.[100]

The council dealt with many things relating to foreign affairs. Frequently the council or some of its members conferred with representatives from abroad.[101] At various meetings, of which the dates cannot be surely ascertained, the council handled foreign business. A message from the secretary of the French ambassador was brought to the council.[102] "A Constant Com^tee" was appointed to meet with the Dutch ambassador; and the committee reported to the council.[103] Somewhat later the council appointed a committee to read the papers of ministers from abroad.[104] Early in 1660, it would seem, a "Comm^tee for forreigne Affaires" was appointed.[105] A little after there was a particular committee to consider the proposals of the Portuguese ambassador.[106] In May 1659 parliament referred it to the committee to hear what the ambassador from the United Provinces had to say further, and present it to the house.[107] Somewhat later Sir Henry Vane reported from the council a form of ratification of the treaty at the Hague, likewise the council's negotiations with the Dutch ambassador. Parliament then agreed that the form of the ratification should be signed, and it approved the proceedings between the ambassador and the council.[108] In July a letter from the grand duke of Tuscany was read in parliament, which referred it to the council of state to signify to the house how matters stood between the grand duke and the commonwealth, and prepare to the letter an answer which the speaker would sign.[109] In September 1659 the council

[100] *Ibid.*, I 86, col. 19.
[101] *Ibid.*, I 85, cols. 19, 59, 67.
[102] *Ibid.*, col. 67.
[103] *Ibid.*, col. 19.
[104] *Ibid.*, col. 60.
[105] *Ibid.*, I 86, col. 5.
[106] *Ibid.*, cols. 21, 22.
[107] *Ibid.*, I 91, 24 May 1659.
[108] *Ibid.*, 30 June 1659.
[109] *Ibid.*, 25 July 1659.

resolved that as soon as parliament's pleasure could be known with respect to the question of the Sound, an express should be dispatched, so that the commissioners plenipotentiary might know whether to remain or return to England.[110]

At the same time the council dealt with matters that concerned Ireland, Scotland, and the plantations. In May 1659 parliament referred to its members who belonged to the council of state, or any five of them, the preparing of an act of union between England and Scotland.[111] About the same time the council named commissioners to administer the affairs of Ireland.[112] On another occasion instructions concerning Ireland were considered in the council.[113] At other times there was consideration of plantation matters, and letters were prepared to be sent to the colonies.[114]

There were as always many local affairs to be managed. Certain disturbances at Brainford were reported to the council.[115] A letter about a riot in Enfield Chase was received along with an order from parliament about it: both were considered.[116] Parliament referred it to the councillors to take such measures as seemed necessary for discovering dangerous persons, to prepare acts thought necessary for the purpose, and report to the house.[117] At another time the council ordered certain scandalous pamphlets suppressed.[118] In connection with various matters petitions were directed to the council of state, or to the parliament which sometimes referred them to the council.[119]

[110] S. P. D., Interregnum, I 79, 12 September 1659.
[111] *Ibid.*, I 91, 18 May 1659.
[112] *Ibid.*, I 85, col. 38.
[113] *Ibid.*, I 86, col. 13.
[114] *Ibid.*, I 85, col. 59.
[115] *Ibid.*, col. 5.
[116] *Ibid.*, col. 26.
[117] *Ibid.*, I 91, 23 May 1659.
[118] *Ibid.*, I 85, col. 59.
[119] *Ibid.*, col. 59; I 91, 19, 30 July 1659.

CHAPTER XV

THE PRIVY COUNCIL, 1660-1679

THE last meeting of the privy council of Charles I seems to have taken place in September 1645.[1] Thereafter it appears to have lapsed, or at least it disappeared in the confusion of the times. During the period of the interregnum there was no more privy council in England, except that for some years the council of the protector was designated by the old name. None the less, driven out of England the king's council continued to maintain a slight and precarious existence. While Charles Stuart, whom so many steadfastly regarded as Charles II, under God's law and the rightful law of man, but who did not reign in England until the restoration in 1660, wandered about in exile, he had with him a council as his ancestors had had at Whitehall in happier days. Clarendon says that immediately after the news of his father's death reached him, he "caused those of his father's council who had attended him to be sworn of his privy council."[2] The records of this council outside of England were afterwards brought together and embodied in what is now the fifty-fourth volume of the register of the privy council. According to this record, from 3/13 May 1649 to 27 May 1660 twenty-nine meetings were held. The record is scanty and most of the volume remains empty and bare, for little business was done at the occasional meetings, some of them held merely for swearing in members.

[1] Sir Edward Nicholas to the king, Oxford, 18 September 1645: S. P. D., Charles I, dx. 126.

[2] *History of the Rebellion*, vi. 262.

3/13 May 1649, in his majesty's bedchamber at the Hague, were sworn of the king's privy council

Sir Richard Lane	lord keeper
Lord Cottington	lord treasurer
Lord Culpepper	master of the rolls
Sir Edward Hyde	chancellor of the exchequer
Lord Hopton	

At a meeting next day

Robert Long	the king's secretary

was sworn, and a clerk of the council was appointed. 12 July, in a meeting at Péronne was admitted

The earl of Bramford and Forth.

4 October, at Castle Elizabeth in Jersey

Sir Edward Nicholas

was added.

Among the interregnum papers of December 1657 is a list of the officers and others serving the king, drawn up by Sir Edward Nicholas for Don Juan of Austria, governor of the Spanish Netherlands, who was contributing to Charles's support. Doubtless it was intercepted by Cromwell's secret service. According to this list there were eight councillors and three clerks of what the compiler called the council of state:[3]

The marquis of Ormonde	viceroy of Ireland
earl of Bristol	councillor and secretary of state
earl of Norwich	councillor of the king
earl of Rochester	councillor and gentleman of the king's chamber
Lord Wentworth	councillor and gentleman of the chamber

[3] S. P. D., Interregnum, clviii. 10.

Lord Culpepper	councillor of the king
Sir Edward Nicholas	councillor and secretary of state
Sir Edward Hyde	councillor and chancellor of the treasury

In 1658 occurs a record: "The Lords and others of his Majesties most Honorable Privy Councell as they are in this Moneth of November 1658." The council then contained eleven members:[4]

Sir Edward Hyde	lord chancellor
George, duke of Buckingham	
William, marquis of Newcastle	
James, marquis of Ormonde	lord lieutenant of Ireland
George, earl of Bristol	
Morogh, earl of Inchiquin	
Henry, Lord Perry	lord chamberlain
Thomas, Lord Wentworth	
Henry, Lord Jermyn	
John, Lord Culpepper	master of the rolls
Sir Edward Nicholas	principal secretary of state

The meetings of the council during this time, in their scanty numbers and in the small business done, reflected the fallen fortunes of the master. At St. Germain in July 1649, the king, the duke of York, and four councillors considered the king's expenditures and means of payment.[5] A little later five councillors in the same place took up a petition from Jersey.[6] In the same place a few days later the king, the duke, and seven councillors determined the explanation of some words in an admiralty

[4] P. C. R., liv. 41.
[5] *Ibid.*, 29 July 1649.
[6] *Ibid.*, 7 August 1649.

patent.[7] Another petition from Jersey was dealt with in another meeting about the same time.[8] A meeting of four councillors at Castle Elizabeth in Jersey ordered an account to be taken of the king's revenue from that island.[9] At Castle Elizabeth that winter the king himself with five councillors issued an order of council in respect of a Jersey petition.[10] Early in the following year three councillors at St. Hilary's, Jersey, considered a petition and denied it.[11] The ships of parliament soon conquered the outlying islands, and the council met in Jersey no more. In April 1650 two meetings were held in the castle of Breda, at which the duke of Buckingham along with the marquis of Newcastle and then the duke of Hamilton were added to the council, thus increasing the number to eleven.[12] In May, at the same town, the king and seven of his council determined to sell the king's jewels pawned in Amsterdam.[13] Clarendon, who afterwards fell partly from the malice and envy of his enemies, seems to have been pursued by envious enemies at this time. In January 1654, Charles being then in France, a meeting of the king, the queen, the dukes of York and Gloucester, and Prince Rupert together with six members of the council gave out "His Ma^ts^ Order in Councell" to vindicate the chancellor of the exchequer from a libel.[14] In November 1656, at a meeting in Bruges, two clerks of the council were sworn.[15] At Brussels two years later another clerk was sworn, and the king bade the lords of the council to meet thenceforth every Friday, and promised that he would be present as often as he could.[16] What else may have been done in these years one does not now know. If there was more, it was doubtless unimportant.

[7] P. C. R., liv, 31 August 1649.
[8] *Ibid.*, 1 September 1649.
[9] *Ibid.*, 19/29 September 1649.
[10] *Ibid.*, 1 November 1649.
[11] *Ibid.*, 1 February 1649-50.
[12] *Ibid.*, 6, 7 April 1650.
[13] *Ibid.*, 6 May 1650.
[14] S. P. D., Interregnum, lxv. 28, 28i.
[15] P. C. R., liv, 18 November 1656.
[16] *Ibid.*, 27 October 1658.

Clarendon says that in 1660, when the king had reached Canterbury, coming up from Dover, Monk in a private audience gave him a paper containing "the names of at least threescore and ten persons, who were thought fittest to be made privy counsellors." Only two of them had ever served the king. At Canterbury Charles made Monk, Sir William Morris, and Sir Anthony Ashley Cooper members of his council. He says also that "the king brought with him from beyond the seas that council which had always attended him, and whose advice he had always received in his transactions of greatest importance." [17] Some of the king's council that had attended him abroad remained there as they found it convenient for a time. 27 May 1660, at a meeting at Canterbury there were, besides the king, the duke of York, and the duke of Gloucester, three of the old members: [18]

The marquis of Ormonde	lord lieutenant of Ireland
Lord Culpepper	
Secretary Nicholas	

Not present, but highest in the confidence of the king was

Sir Edward Hyde	lord chancellor

At this meeting were sworn of the council

General Monk
earl of Southampton
Sir William Morris
Sir Anthony Ashley Cooper

Four days later several new councillors were sworn, and at a meeting of the council held there were present, be-

[17] *The Life of Edward Earl of Clarendon . . . in Which is Included a Continuation of His History of the Grand Rebellion* (Oxford, 1857), i. 269, 276, 278.

[18] P. C. R., liv, 27 May 1660.

sides the king and the duke of York, fifteen, including the following new members: [19]

Marquis of Hertford
earl of Northumberland
earl of Leicester
earl of Berkshire
Lord Seymour
Arthur Annesley
Lord Wentworth

Seven more members were sworn of the council next day: [20]

earl of Lindsay	lord great chamberlain
earl of Manchester	
earl of St. Albans	
Lord Viscount Say and Seale	
Lord Roberts	
Denzill Holles	

At various dates during June, July, and August were sworn these others: [21]

Colonel Charles Howard	
Lord General Montague	
Sir Frederick Cornwallis	treasurer of the king's household
Sir Charles Berkeley	comptroller of the king's household
Sir George Carteret	vice chamberlain of the king
marquis of Dorchester	

Thus almost at once the number of the council was raised to twenty-seven. A list of "The names of the Lords, and others of his Ma^ts^ most honorable Prive Councell" pre-

[19] P. C. R., liv, 31 May 1660.
[20] *Ibid.*, 1 June 1660.
[21] *Ibid.*, 2, 14 June, 6, 11 July, 27 August 1660.

fixed to the next volume of the council register contains twenty-six besides the duke of York.[22]

Clarendon says that into the privy council Charles admitted all who had been councillors to his father, and had not eminently forfeited claim by revolt, and many of those who had been recommended by the lord general, among whom were some who would not have been admitted upon any other title.[23] The tendency was now, as it had been in the time of Charles I and of James I, for the council to increase by further additions. In March 1661 there seem to have been twenty-eight members.[24] In June 1662 there were thirty-six, including the duke of York and Prince Rupert.[25] In January 1664 there were forty, the archbishop of Canterbury and the bishop of London among the additions.[26] In 1665 Clarendon, remonstrating against the admission of Coventry to the council, told the king "That the members of that board had been always those great officers of state, and other officers, who in respect of the places they held had a title to sit there, and of such few others who, having great titles and fortunes and interest in the kingdom, were an ornament to the table." He added that there were now too many in the council; the number lessened the dignity of the position.[27] Not long after Pepys observed: "I do see that by how much greater the council, and the number of Counsellors is, the more confused the issue is of their councils."[28]

The number of members in the council at any particular time is not easily ascertained, since each of the lists prefixed to the various register volumes usually

[22] *Ibid.*, lv, fo. iii, August 1660.
[23] Clarendon, *Life and Continuation*, i. 310, 311.
[24] Add. MS., 36781, fo. 2. [25] P. C. R., lvi, fo. i.
[26] *Ibid.*, lvii, fo. i. [27] Clarendon, *Life and Continuation*, ii. 186, 187.
[28] *Diary* (ed. H. B. Wheatley, London, 1903-4), 2 January 1667-8.

relates to the entire period covered by the contents of the volume, and hence contains the names of those dismissed or withdrawn from the council during that interval along with those added. Sometimes the clerk has drawn a line through a name when the person has ceased to be a member, and more frequently he has indicated by a note when a member withdrew or was added; but often there is no indication of change, so that the list will not give exactly the total, and only patient examination of the entire contents of the volume will give the proper total exactly, and that total is true only for the moment and a brief time further, until the next change was made. From time to time in other places clean lists of council members occur, and they, in so far as they are accurate, give closer idea of the truth. All in all, however, the register lists, with the extra occasional ones, give adequate information concerning the size of the council including the members of the royal family other than the king.

1660	28–29 [29]
1661	28 [30]
1662	36 [31]
1664	40 [32]
1667	46 [33]
1668	42 [34]
1669	42 [35]
1670	41 [36]
1675	50 [37]
1677	47 [38]
1679	47 [39]

[29] P. C. R., liv; lv, fo. iii.
[30] Add. MS., 36781, fo. 2.
[31] P. C. R., lvi, fo. i.
[32] *Ibid.*, lvii, fo. i.
[33] *Ibid.*, lix, fo. i.
[34] *Ibid.*, lxi, fo. i.
[35] *Ibid.*, lxii, fo. i.
[36] S. P. D., Charles II, cclxxvi. 385.
[37] P. C. R., lxv, fo. i.
[38] *Ibid.*, lxvi, fos. i, ii.
[39] *Ibid.*, lxvii, fos. i, ii.

It is well known that in 1679 Charles II dismissed his privy council, and undertook a reform which, among other things, provided that thereafter the council should contain not more than thirty members, in addition to the princes of the blood.

Councillors now, as in the period before the interregnum, were appointed altogether at the pleasure of the king, and held during continuance of that pleasure only. They were appointed from time to time as the king willed it, and they might be summarily dismissed if they came into disfavor. In 1667 "His Matie was pleased this day to declare in Councill his Royall Will & Pleasure and accordingly to Order & command, That Edward Earle of Clarendon late Lord High Chancellor of England be displaced from being one of the Lords of his Ma^{ts} most Hono^{ble} privy Councill, and that his name be accordingly razed out of the List of his Ma^{ts} most Hono^{ble} Privy Councellors." [40] In 1674: "His Matie this day in Councill Declaring his displeasure against the Earle of Shaftesbury, Comanded the Clerk of the Councill That his Name be henceforth left out of the Number of Privy Councello^{rs}" [41] Admission to the council involved taking the councillor's oath, like that of the earlier period, and also an expensive formality. "To my Lord, much business," says Pepys of the earl of Sandwich in 1660. "With him to the Council Chamber, where he was sworn; and the charge of his being admitted Privy Councellor is £26." [42]

As in the preceding period also the council had various assistants and servants. There were four clerks of the council.[43] When appointed a clerk also was sworn.[44] These clerks seem to have been competent, industrious,

[40] *Ibid.*, lx, 4 December 1667.

[41] *Ibid.*, lxiv, 19 May 1674.

[42] *Diary*, 21 June 1660.

[43] P. C. R., lvi, fo. ii.

[44] Robert Southwell was sworn clerk of the privy council in 1664: *ibid.*, lvii, 23 September 1664.

well-informed. They wrote the numerous papers concerned with council business, took notes of the proceedings and memoranda of the orders to be executed, and it was they who made the formal record of proceedings embodied in the council register. Doubtless they saw much and had opinions of their own. "This morning," says Pepys in 1664, "Mr. Burgby, one of the writing clerks belonging to the Council, was with me about business, a knowing man, he complains how most of the Lords of the Council do look after themselves and their own ends, and none the publique, unless Sir Edward Nicholas." [45] There was also a secretary to the council, as there had been under the protectorate; and it is interesting to note that as Mr. Thurloe, secretary of the council of the protector was after a while secretary of state, so in the time of Charles II Sir Joseph Williamson, "Secretary to the Councell" [46] was afterwards one of the secretaries of state. There were, in addition, keepers of the council chamber, and messengers of the council.

As a result of the civil wars and alterations of the previous decade the power of the king and along with it that of his council had declined while parliament's power had risen. None the less, the government of England after 1660 for some time continued to be much as it had been before 1640. The doctrine of divine right, if not abandoned, had suffered fatal diminution from the fall of Charles I. Star Chamber was gone; there was no longer any question of the king levying taxes of any sort without parliamentary grant. There was general feeling among those who knew that the king was less and that parliament was or could be the master. Yet the idea was largely based on sentiment and on remembering a revolution now ended rather than resultant from changes that

[45] *Diary*, 2 March 1663-4. [46] S. P. D., Charles II, cccxii, 2 July 1672.

avowedly altered the structure of the government. For the most part the government of England was still vested in the king, and for the most part it was still carried on by the monarch assisted by his ministers and council. After a short interval, it is true, parliament began encroaching or making trouble; but for some time it was able to do little more than thwart and control by opposing. Not until after 1688 did parliament really begin to take much of the government into its own hands; and then it attained this object mostly by getting control of and establishing close relations with the ministers who had formerly had their principal relations with the crown. Even so the result was reached only by slow process in the century succeeding.

After 1660, therefore, the central government was mostly in the king and his council. After that time, it is true, the council steadily waned in importance, and more and more it lost control of the important things in the realm. That had been going on to some extent, however, for a long time before 1640. It resulted from transfer of real importance from the whole council to a part of itself—the cabinet. But again the process was slow. For a generation after 1660 the privy council had part in important affairs of the state, and sometimes matters of importance were actually decided in the council. Moreover, much formal routine in respect of important matters was concluded and a great deal of routine and detail was regularly dealt with there. Hence, though less important than it had been, and constantly though slowly getting to be still less important, the privy council continued to be a body, great and august, more important for a while in ordinary government business that any other organ of the government, meeting frequently, well attended, dealing with a vast body of miscellaneous things.

The privy council met in various places, at the convenience of the members, at the pleasure or order of the king. For the most part its meetings were held at Whitehall, in the council chamber at the Cockpit.[47] From 1 June 1660 to the end of December all of the eighty-one meetings of the council were at Whitehall.[48] Other meetings were held at Hampton Court, Worcester House,[49] "At the Prince's Lodgings at Westminster",[50] at Sion House, at Salisbury, at Oxford,[51] at the prince's lodgings.[52] Always, however, during this period, the regular place of meeting was at the council chamber in Whitehall, more than nine out of ten meetings being held there, so that meetings elsewhere may be considered unusual. For short periods, however, regular meetings of the council were held at Hampton Court or at other places, when the king stayed in the country, away from London. In 1674, according to a newsletter: "The King has ordered that during his stay at Windsor the Council should meet every Wednesday at Hampton Court." [53] In the summer of 1679 the Dutch ambassador wrote that the regular Thursday meetings of the council at Hampton Court had been brought to an end for the time being.[54]

Descriptions of the council chamber are scanty and few, though it is not hard to reconstruct again the outlines of the pictures—the chamber with its long table, the councillors' seats about it, the papers and memoranda on the board before them, the clerks in attendance to

[47] "The Cockpit at Whitehall stood on the site of the present Privy-Council Office." Donne, note, in *Correspondence of George III with Lord North* (1867), i. 37.

[48] P. C. R., liv, lv.

[49] *Ibid.*, lvii, 10 March 1663-4.

[50] *Ibid.*, lviii, 2 March 1664-5.

[51] *Ibid.*, lviii.

[52] *Ibid.*, lxiii, 29 March 1673.

[53] *Le Fleming MSS., H. M. C.*, 12th. report, appendix, vii, 111.

[54] "De weeckelijcke Donderdaeghsche byeenkomsten van des Coninghs raet tot Hamptoncourt sijn tot int laetsten van September wtgestelt ende sullen veelen leeden van den Raat haer daerop naer haere lanthuijsen begeven." Van Leeuwen to the states general, Windsor, 18 August 1679: Add. MS. 17677 EE, fo. 202.

read and write on order. A contemporary picture of "His Matie and his Prive councell" shows Charles II covered and twelve councillors uncovered about an oblong table seated in chairs with arms and straight or slightly curving backs.[55] In 1664, at a meeting of the council, warrants were given to the two keepers of the council chamber, directed to the treasurer of the chamber, "for allowance of Ten pounds for Charges of Broomes, Brushes, Vrinalls &c. for one Yeare ended at Midsomer 1664." [56] In 1669, at a large council with the king present, it was ordered that the surveyors of his majesty's works should at once cause presses to be set up in the council chamber "for the keeping of Books, and other necessaryes that so the Lords may make use of them upon any Occasion." [57] At another time the officers of the green cloth were authorized to order fuel and candles for their lordships' service, to be delivered to the chamber keeper—which brings it back again that probably the chamber was often warmed with a fire of coals and work done by candle light.[58] In 1676 the council referred it to one of the council committees what compensation should be made to a certain one who had furnished pens, ink, paper, and other necessaries for the council's use, also what payment ought to be made to the messengers of the council.[59] From time to time one catches a glimpse of the environs of Whitehall and the council chamber, from Pepys or from others. "Last night," says Sir Joseph Williamson in his journal for October 1667, "being the D. of Yorkes birthday, a Danceing was at the D. of Monmouth's lodgeings in the Cockpitt." [60]

[55] Frontispiece to *England's Glory, or, an Exact Catalogue of the Lords of His Majesties' Most Honourable Privy Councel* (1660), reproduced in R. B. Morgan, *Readings in English Social History* (Cambridge, 1923), pp. xxvi, 392.

[56] P. C. R., lvii, 31 August 1664.

[57] *Ibid.*, lxi, 20 January 1668-9.

[58] *Ibid.*, lxiii, 23 September 1671.

[59] *Ibid.*, lxv, 14 July 1676.

[60] S. P. D., Charles II, ccxxxi. 66.

There were frequent meetings of the council, so that regular attendance must have been an onerous duty and burden. At the beginning of June 1660 the council determined to sit each week on Wednesdays and Fridays, at three o'clock in the afternoon.[61] Some weeks later it was ordered "That the Councill should attend his Matie in Councill every Eveninge at Six of the Clock, to debate about publick Businesse."[62] In June 1660 there were twelve meetings of the council; in July, twelve; in August, thirteen; in September, fourteen; in October, nine; in November, twelve; in December, nine;[63] that is to say, there were meetings pretty regularly every two or three days. Sometimes there were a morning and also an afternoon meeting in one day.[64] In August 1661 "It was this day Ordered by his Matie in Councell that (in regard of the approaching Progresse, the businesse of New-England, & other affaires requireing dispatch) the Councell henceforward meete thrice a Weeke, (vizt) Munday Morning, Wednesday Morning, & ffryday morning."[65] In September 1662 it was ordered that the council should meet Wednesdays and Fridays, until term time, at nine o'clock in the morning, at the council chamber in Whitehall.[66] In August 1664 the council was ordered thenceforth to "meet but onely upon Wednesdayes weekly in the Morning at Nine of the Clock, untill order be given to the Contrary."[67] In 1665 a correspondent says that "The king and all the Councell meet constantly three times a weeke."[68] In January 1668 there were ten meetings; in February, eight; in March, nine; in April, ten; in May, eight; in June, eight; in July, twelve; in August, nine;

[61] P. C. R., liv, 1 June 1660.
[62] *Ibid.*, 20 July 1660.
[63] *Ibid.*, liv, lv.
[64] *Ibid.*, liv, 31 August, 7 September 1660.
[65] *Ibid.*, lv, 7 August 1661.
[66] *Ibid.*, lvi, 10 September 1662.
[67] *Ibid.*, lvii, 3 August 1664.
[68] Denis de Repas to Sir Robert Harley, Oxford, 24 November 1665: *H. M. C.*, 14th report, appendix, ii. 294.

in September, fourteen; in October, nine; in November, ten; in December, eight.[69] "The Councell continues as usually Wednesdays & fridays here at Whitehall," said Williamson in his journal for that October.[70] In January 1678 there were five meetings; in February, six; in March, ten; in April, seven; in May, six; in June, seven; in July, seven; in August, two; in September, seven; in October, eight; in November, thirteen; in December, eleven.[71]

For the most part meetings were regularly appointed or arranged. In addition there were other, "extraordinary", meetings called at desire of the council or at the king's behest, as convenience or emergency dictated. On occasion the ordinary times of meeting were altered. Sometimes meetings of the council were suspended altogether, especially in the summer.

"I pray," said the lord chancellor, Clarendon, in a note which he passed to the king during a meeting, "before wee goe to any other businesse, declare the councell for Munday." [72] In 1662, when preparations were being made to receive the Russian ambassador, the governor and certain members of the Muscovy Company were bidden to "attend his Matie at Hampton Court upon Sunday next the Sixth instant, at the Counsell Chamber there, at Three of the Clock in the Afternoone." [73] "This afternoone," says Sir Joseph Williamson in 1668, "was an extr^y Councell about concludeing upon the setting the new Duty on Wines." [74] Somewhat later he declared that

[69] P. C. R., lx, lxi.

[70] S. P. D., Charles II, cclii. 79.

[71] P. C. R., lxvi.

[72] *Notes Which Passed at Meetings of the Privy Council between Charles II and the Earl of Clarendon, 1660-1667*, etc. (Roxburghe Club Publications, London, 1896), p. 48.

[73] P. C. R., lvi, 4 July 1662.

[74] Sir Joseph Williamson's Journal, 25 May 1668: S. P. D., Charles II, ccliii. 43.

a certain Monday was appointed to be "a Councell day extra^{dry}" for dispatch of several matters for which time was wanting on the ordinary days.[75] In September 1678 the king ordered an extraordinary council to be held one morning, at which Williamson, secretary of the council, presented a bundle of papers received from Dr. Tongue, purporting to give information about a conspiracy of the Jesuits against the king's life.[76] There were five meetings of the council on that and the two following days.[77]

On the other hand, time of meeting was altered or meetings were suspended altogether when there was not much other business or when the king went away from London. As in the earlier period, councils were so adjusted as not to conflict with court sessions in term time. In October 1668 Williamson wrote in his journal: "The terme comeing on the Councells will be held henceforward in the afternoones." In December: "The terme being ended the Councell is appointed henceforth to meet in the forenoones." [78] In June 1669 he said that the council "as is usuall in the terme time is appointed to be held in the afternoone by reason the Lord Keep^{r} & those of the long Robe are employed in Westm^{r} Hall in the morning." [79] At a meeting held at Hampton Court in July 1674 Charles ordered that there should be no more meetings of the council until after his return to Whitehall, where he intended to be 21 August following.[80] Actually there were no further meetings of the council until 4 September. Some months later the council resolved that while the king was at Newmarket there should be only one meeting each week, on Friday afternoon.[81] "The

[75] Journal, 26 June 1669: S. P. D., Charles II, cclxxi.
[76] P. C. R., lxvi. 28 September 1678. [77] *Ibid.*, lxvi.
[78] Journal, 21 October, 1 December 1668: S. P. D., Charles II, cclii. 83, 95. [79] Journal, 9 June 1669: S. P. D., Charles II, cclxxi.
[80] P. C. R., lxiv, 24 July 1674. [81] *Ibid.*, 5 March 1674-5.

Council is adjourned for some weekes yet to come", wrote Williamson in 1676.[82]

In addition to meetings of the council, two or three a week, sometimes two a day—though there were occasions when no meetings of the council occurred for some weeks, there were numerous meetings of committees. He who faithfully attended had his time much taken up by council affairs. That is seen in the diary of the earl of Anglesey, not one of the more important members but faithful in attendance for a time:

1678-9

January 7 This morning spent in the Councel chamber . . .

8 The morning gaue my daughter Anne in marriage to Sr Francis wingate at S^t^ martins church the Deane of Bangor married them then went to Com^ttee^ of Councel, the afternoon was at the Com^n^ of the admiralty and at Councell and did dutyes and saw da: Anne bedded.

9 This morning spent in the Com^ttee^ of Councell . . .

10 The morning spent in London at the Gambia aduenturers the afternoon at Councel . . .

11 The morning spent at councel Com^ttee^ and at Admiralty . . .

13 This morning spent at Councel . . .

14 The morning at Councel chamber . . .

15 The morning at Com^ttee^ of Councel the afternoon in councel and other busines and dutyes . . .

[82] Letter to the bailiffs of Yarmouth, 25 September 1676: S.P.D., Entry Books, xliii.

16 The morning till late spent at the Councell Com^ttee . . .

17 The morning at Com^ttee of councel, the afternoon at Councel . . .

18 This morning was at the Com^ttee of Councel . . .

And so, day after day.[83]

Attendance at the council was much as it had been in the earlier period, and much as it would be at any like body. Seldom or never did all of the councillors come to any one meeting. While the membership of the council varied from thirty to fifty, and was generally somewhere above forty, attendance usually varied from twelve to twenty-five, and was frequently not far from twenty. During June 1662 the attendance at the various meetings of the privy council was respectively, 19, 17, 22, 11, 18, 16, 18, 22, 23, 11, 25.[84] The attendance during January 1668 was successively 21, 22, 22, 25, 26, 23, 25, 22, 27, 22.[85] During April 1673 it was 22, 22, 30, 29, 24, 21, 13, 14.[86] During February 1679 the numbers were 26, 27, 17, 26, 24, 25, 25, 23, 22.[87]

Some of the members attended regularly, and were usually present at whatever meetings of the council were held. They tended also to be on the important committees; in effect they often constituted the committee of the whole council; and some of them made up the nucleus of the council that emerged as the cabinet council. On the other hand some members attended irregularly and others were seldom or never present. As at other times, analysis of attendance at the council would show a part

[83] Diary of the earl of Anglesey, 1675-1684: Add. MS. 18730.
[84] P. C. R., lvi, 4, 6, 8, 9, 13, 15, 18, 22, 25, 27, 29 June 1662.
[85] *Ibid.*, lx, 3, 8, 10, 15, 17, 20, 22, 24, 29, 31 January 1667-8.
[86] *Ibid.*, lxiii, 2, 4, 9 April 1673; lxiv, 11, 16, 18, 25, 30 April 1673.
[87] *Ibid.*, lxvii, 5, 7, 10, 12, 14, 19, 21, 26, 28 February 1678-9.

of the attendance each time composed of the members who came with fair or constant regularity, while the remainder, over any period of time, was composed of a larger body of those who attended occasionally or at random.

There were some small meetings and from time to time there were large ones. On the afternoon of 12 September 1660 there was a council of twelve.[88] In October there was a council of eight.[89] In the summer of 1661 the king and five of the council heard two acts of parliament read.[90] In May 1673 there was a privy council of eleven.[91] In the summer of 1678 there was a council of eight.[92] In October of that year there were meetings of ten and of seven.[93] On the other hand there was a meeting of the king and twenty-seven in January 1668,[94] and one of the king and twenty-nine in the following month.[95] In May 1672 there was a meeting of the king and twenty-six.[96] In April 1673 there was a council of the king and thirty,[97] and a few days after another of the king and twenty-nine.[98] In November of that year there was a meeting of the king and thirty-one.[99] In February 1675 the king presided at a council of twenty-nine.[100] In June he was present at a council of thirty-two.[101] During January 1679 there were two councils of thirty-three, and three of twenty-nine, at all of which the king was present.[102] Generally, though not always, attendance was larger when the king came to council. On some particular

[88] *Ibid.*, liv, 12 September 1660.
[89] *Ibid.*, lv, 31 October 1660.
[90] *Ibid.*, 28 July 1661.
[91] *Ibid.*, lxiv, 16 May 1673.
[92] *Ibid.*, lxvi, 24 July 1678.
[93] *Ibid.*, 10, 11 October 1678.
[94] *Ibid.*, lx, 29 January 1667-8.
[95] *Ibid.*, 12 February 1667-8.
[96] S. P. D., Charles II, cccviii, 10 May 1672.
[97] P. C. R., lxiii, 9 April 1673.
[98] *Ibid.*, lxiv, 11 April 1673.
[99] *Ibid.*, 12 November 1673.
[100] S. P. D., Charles II, ccclxviii, 3 February 1674-5.
[101] P. C. R., lxiv, 6 June 1675.
[102] *Ibid.*, lxvii, 3, 8, 10, 22, 24 January 1678-9.

occasions, as when the king pricked the sheriffs, attendance was apt to be full.

Charles loved gaiety and pleasure, and gave himself to self-indulgence and debauchery that had in the end, perhaps, much to do with shortening his life. Accordingly he had then, and since he has had, reputation for idleness and neglect of governmental affairs. This is not borne out, however, by study of what he actually did. His more important work of administration and considering of what ought to be done was transacted with small groups of his ministers, especially in the all-important committee of foreign affairs. More and more it was coming to be that while a vast amount of administration and especially routine business, some of it necessary and weighty enough, was attended to in the privy council, yet diplomacy, state affairs, and general policy—especially first consideration of secret matters and the real decision, which must engross the head of the government—were attended to elsewhere. Nevertheless, Charles II often attended the privy council, far more frequently than had James I, and much more on the whole than his father. In 1665, Pepys, speaking of Charles says, " very constant he is at the council table on council-days; which his predecessors, it seems, very rarely did." [103]

In June and July 1660 there were twenty-four meetings of the council, to seventeen of which the king came.[104] He attended all but one of the nine council meetings in October that year.[105] In June 1662 the king was present at five out of eleven meetings.[106] In 1668 Charles was present at all the ten meetings in January, all the eight meetings in February, all the nine meetings in March, all of the ten meetings in April, six of the eight meetings in May—he had not missed a meeting until 22 May that

[103] *Diary*, 27 February 1664-5
[104] P. C. R., liv.
[105] *Ibid.*, lv.
[106] *Ibid.*, lvi.

year, seven out of the eight meetings in June, all twelve meetings in July, all the nine meetings in August, eleven out of fourteen meetings in September, three of the nine meetings in October, all of the ten meetings in November, all of the eight meetings in December; that is, he came to one hundred and three of the one hundred and fifteen meetings held that year.[107] In March 1673 the king came to five of the seven meetings.[108] In July he attended six of the nine meetings assembled.[109] In November and December he attended all of the eleven meetings.[110] During 1678 he came to four of the five meetings in January, all of the six meetings in February, nine of the ten in March, six of the seven in April, all of the six meetings in May, all of the seven meetings in June, six of the seven in July, both of the meetings in August, all the seven meetings in September, five of the eight in October, all thirteen in November, and ten of the eleven in December: or altogether, eighty-one out of eighty-nine times.[111] It is probable, moreover, that the king was present somewhat more frequently than these tabulations would show, for he may sometimes have been present when his name is not given at the head of the list of those present at a meeting. At a council in August 1660, his name does not occur with the list of those mentioned as present; but in the latter part of the minutes, with respect to a complaint that had just been read, is the note: "Due consideracon of all wch premisses being this day taken by this Board (his Matie being present in Councill)".[112] When it is considered that sometimes, though not usually, Charles II was present at ordinary committees of the council, and that he usually went to meetings of the important foreign committee, it is evident that attending to council business alone engrossed no small

[107] *Ibid.*, lx, lxi.
[108] *Ibid.*, lxiii.
[109] *Ibid.*, lxiv.
[110] *Ibid.*
[111] *Ibid.*, lxvi.
[112] *Ibid.*, liv, 22 August 1660.

part of his time. It is probable, indeed, that the council generally expected his presence. " Yesterday in the afternoone & this morning ", says Williamson in 1669, " were held exd^ry Councells to dispatch some businesses depending before the Board before his Maties departure." [113] In 1673 a certain one wrote: " The King haueing been abroad this week on the Councell days, nothing of moment hath passed there." [114]

The procedure and conduct of business in the privy council were in accordance with council regulations formerly made. At the beginning of the first volume of the council register for the reign of Charles II were prefixed the old regulations drawn up 20 February 1628, which, with some modifications had been the rules for council procedure throughout the time of Charles I, and which had, in turn, embodied the practice and tradition of the council for a long time before. In the subsequent years of Charles II's time these rules continued largely unaltered.

According to these regulations, during term time the councillors were to sit regularly on Wednesday and Friday afternoons, for the dispatch of suitors, unless more important business of state intervened. When the council was summoned, each councillor was to keep the hour of meeting, or by the time appointed send his excuse if not able to come. Outside of the regular times of assembly the lords were to be summoned to meet in council by order from the lord president or from one of the principal secretaries of state—the office of lord president was not again filled until Shaftesbury was promoted to it in 1679. When as many as three of the lords had gathered in the council chamber, all suitors and attendants were

[113] Journal, 28 August 1669: S. P. D., Charles II, cclxxi.

[114] R. Yard to Sir Joseph Williamson, Whitehall, 6 June 1673: S. P. D., Charles II, cccxxxv, part ii.

to leave the chamber or stay out, so that the lords of the council might in privacy prepare their business before the sitting of the council began. On one occasion, in 1922, the author was permitted to visit the cabinet room in Downing Street. He was at once taken out when two members of the cabinet conversing entered unexpectedly through one of the French doors from the garden. The rule about non-members in the council chamber was reinforced by an order of the king in November 1675:[115]

> His Maty was pleased this day to command,
> That no Person whatsoever be permitted to stay in the Councill Chamber, when any three of the Lords of His Mats Privy Councill are there present.
> And that no Person whatsoever not being a Privy Councellor do presume to come into the Councill Chamber at the Door that leads out of the said Councill Chamber to the Privy Gallery.

Councillors were to enter the council chamber always by coming through the presence chamber, and never by the private way unless they were on particular and secret committees.

Councillors having taken their places were to keep them, particularly when outsiders were called in. When members of the council rose they were to stand uncovered. The sitting begun, the lord president or one of the principal secretaries of state was to inform the council of the reason for the meeting. If the king had sent anything to be considered, or if there was anything requiring dispatch for the public, it was always to be preferred before any private affair. If one of the secretaries had anything to deliver to the council from the king or any other intelligence he was to stand at the upper end of the board. His

[115] P. C. R., lxv, 24 November 1675.

explanation made he must go back to his place. If the day were of ordinary business, then after the lords were seated, all the petitioners should be admitted, each one to deliver his petition kneeling at the upper end of the board, the petition presented each one to withdraw without talking or troubling the council and not return unless called in again.

In all debates at the council secrecy and freedom. Each member to speak with respect to the others. No offence for any advice there given. When a lord spoke to the council he was to rise and stand uncovered—though if he spoke to any one not a councillor he was to be covered. As little discourse or repetition as possible. If a matter was decided in council by vote, the councillor lowest in place to speak first. In 1668 this was emphasized by the provision: "the old Rule is ever strictly to be Observed, That the Yongest Councellor do begine, and not to speake a second time, without Leave first Obtayned." [116] Decision to be by majority, every councillor having equal voice. When a matter was decided, afterward there was to be no publication by any one concerning particular voices or opinions.

When causes were taken up and parties heard at the council, the lords were by questioning to inform themselves of the truth of the matter, but they were not in the course of the hearing to express an opinion. When the cause had been fully heard the parties must withdraw, and the lords debate the matter in private. If difference of opinion persisted they were to vote severally, if that were called for, the lord president, or in his absence a secretary of state, to take the votes.

When an order of the council was agreed on, the clerk should write it out and read it to the board, for correction of any mistake. Afterwards, when he had drawn up the

[116] P. C. R., lx, 12 February 1667-8.

order at large, in a case of importance, before entering the order in the council book and before delivering it to the person concerned, he was to show the draft to the lord president or to one of the secretaries of state, who was to allow it if correct and sign it. When orders of the council went out, in the king's name or otherwise, special care must be taken to see that they were executed by calling for account of them from time to time.

Passes for noblemen or their children to go overseas were to be signed by the king. When the lords of the council granted such license to persons of meaner condition, the pass was to be signed by one of the secretaries, who must previously have made inquiry of the person seeking the pass.

With respect to petitions, the clerk of the council should make a note on each one, showing when it was presented, that the lords might afterwards know how to deal with the various petitioners in order of time and in accordance with other need for dispatch. Consideration to be had for the poorest petitioners, that they be not worn out through long attendance.

At the end of any meeting of the council, the lord president, or in his absence one of the secretaries of state, was to tell the lords what unfinished business remained, and take their resolution what business to bring up first at the next meeting, if no greater affairs intervened.[117]

In 1672 a regulation provided that five should be a quorum of the council: "And that the proceedings of Our said Councill may receive noe delay or Enterruption by the Absence of any of the Members thereof, Wee doe hereby declare and Ordaine, That any Five of the said Standing Councill shall be a Quorum whereof the said President or Vice-President to be allwaies one." There was no lord president of the council during these years,

[117] *Ibid.*, liv, fos. i, ii.

nor any vice-president specifically appointed. The regulation provided that if these officials were not present, then the quorum should be four of the council and one other of certain members of the council particularly named.[118]

The register of the council for this time, as before, contains no record of debates there, except for occasional allusion, but no little information can be had from miscellaneous sources. In June 1660 Charles in a council of twenty-one ordered a committee to prepare a proper message to be sent by him to the house of commons about expediting the act of oblivion and the proclamation to be issued by the king at their request concerning this act, "according to the Consideracon and debate this day had in the Councell."[119] A little later it was ordered: "That the businesse or designe of makeing farthings to be had in debate before the Councell bord on Wednesday 28. June inst." [120] A few days after, "Upon Serious debate and Consultation this day had at this board concerning the Excise & Customes in his Maties Kingdome of Ireland", an order in council was issued to appoint persons to manage the excise and the customs there.[121] According to Burnet, writing later, there was in 1662 a great debate in the council a little before St. Bartholomew's day, about whether the act of uniformity should or should not be carried out at once. Some moved for delay till the next session of parliament. Others were for executing it at once for the most part.[122]

Probably the debates were often tedious enough. At a council in 1661, Charles and his lord chancellor present,

[118] S. P. D., Charles II, cccxv, 27 September 1672.
[119] *Ibid.*, iv, 15 June 1660. [120] P. C. R., liv, 20 June 1660.
[121] *Ibid.*, 27 June 1660.
[122] Burnet (ed. Osmund Airy, Oxford, 1897-1900), i. 341.

Clarendon quietly passed over to the king a note written in his usual cramped hand: [123]

> Will you putt us to deliuer our opinions in this matter this night: it will take much tyme: my L[d] Dorchester must be very longe, and my L[d] Anglesey as longe, since I præsume they will differ both from ther learninge they last published in this place.

Written in his easy flowing script, the king's answer came back:

> If those two learned persons could be sent to supper, we might dispatch it now, but by my L[d] of Dorchester's face I feare his speech will be long which will be better for a collation then a supper.

It is very probable that important matters of policy and government were generally not debated, or at least not effectively discussed, in the council: they had already been talked over or decided by the king with his more confidential councillors in the committee of foreign affairs or cabinet, and were brought before the council only for announcement and formal approval. In 1672, at a council of the king and twenty, " His Ma[tie] haveing this day Ordered the Lords & others of his privy Councill to attend him in Councill, is pleased to Declare " that since the neighboring princes and states were making great preparations for war, and he was preparing to assure the safety of his people, so incurring great charges, which there was no possibility of defraying, " He was necessitated (contrary to his owne Inclinations) Upon these Emergencyes, & for the publick safety, at the p[r]sent to cause a stop to be made of the payment of any Moneys now being made, or to be brought into his Exchequ[r] for the space of one Whole yeare." It would appear from the record that there was no debate of this matter.[124] On

[123] *Notes Passed at Privy Council*, p. 50.

[124] P. C. R., lxiii, 5 January 1671-2.

the other hand late that year, at a meeting of the king and twenty-eight of the council, " It was this day ordered by his Matie in Councell, that the R^t^ Honb^le^ the Earl of Arlington, his Maties Principall Secry of State, doe forthwith cause his Maties Order and declaration, touching the farther stop of all payments of money out of the Exchequ^r^, untill the first day of May next ensueing, which was this day read and approved at the Board, to be forthwith printed and published." [125]

During the debates, the rule seems to have been, as is the rule in the cabinet now, that there should be no private oral conversation. Evidently, then as now, the members passed written communications, when they wished. This is borne out especially by the body of notes remaining which Clarendon passed to the king during meetings of the privy council and by the notes which Charles passed to him.[126]

The oath of the privy councillor pledged him to secrecy in what the council wished unrevealed; but not only did ordinary affairs not requiring any secrecy come to outsiders' knowledge, but, as formerly, those who took the trouble, especially foreign ambassadors, willing to dispense money and favors, often learned about the highest and most secret matters.

When secrecy was particularly desired the council sat close, that is clerks and all outsiders were excluded, and the councillors were supposed to reveal nothing of what took place. " The only thing that engageth men's thoughts and discourse ", a correspondent wrote in 1661, " is the King's marriage, concerning which the Council sat yesterday morn; but all the clarks were commanded out, and all the councillors enjoyned secrecy by the King himself,

[125] P. C. R., lxiii, 11 December 1672.

[126] *Notes Which Passed at Meetings of the Privy Council between Charles II and the Earl of Clarendon, 1660-1667,* etc. (Roxburghe Club Publications, London, 1896).

both before and after council; but tis generally believed tis concluded for Portugall." [127] In 1667 Povey told Pepys that on the ill news of the Dutch being so near at hand, Whitehall was shut up, and the council called and sat close.[128] And a little later another one told him that the night before the privy council had sat close to determine the king's answer about peace.[129] In the record of the meeting of a council of twenty-four in the king's presence in 1679 is the memorandum: "That this Day the Councill entring into private business the Clerks of the Councill withdrew." [130] In 1679 the earl of Anglesey wrote: "The morning in parliam[t] the after noon in very secret Councel." [131]

It would seem that the oath of secrecy was often carelessly observed. In May 1679 Charles II is reported to have said that he decided to prorogue parliament without consulting the privy council, because "if he had called his Council to consult this matter something of it would have taken vent and occasioned some sudden rash votes, which by the secrecy were prevented." [132] Somewhat later that year Charles told the council he thought it very ill service done him to have the advice and even the very words of those who sat in the council told to their disadvantage, after they had counselled him, properly, as he said.[133]

Some things were properly known, and others revealed themselves almost as a matter of course in the conduct of council business. In 1673 the vice-chancellor of Oxford writing from that place told Sir Joseph Williamson,

[127] Francis Newport to Sir Richard Leveson, 30 April 1661: *Sutherland MSS., H.M.C.*, 5th report, appendix, p. 151.

[128] Pepys, *Diary*, 24 June 1667. [129] *Ibid.*, 11 July 1667.

[130] P.C.R., lxviii, 29 April 1679.

[131] Diary, 29 April 1679: Add. MS. 18730.

[132] Sir Robert Southwell to the duke of Ormonde, 31 May 1679: *H.M.C., Ormonde MSS.*, new series, iv. 520.

[133] Southwell to the duke of Ormonde, 18 October 1679: *ibid.*, p. 545.

clerk of the council, that he understood the business of hackney coaches would be considered at council the following Friday: he wanted it deferred.[134] In 1680 the writer of a newsletter said, with respect to a controversy between Oxford University and various London booksellers about the printing of certain bibles, that a long debate occurred in the council, but that the business was referred to the common law.[135]

There was no excuse, however, for the publication of some other matters. Pepys always seemed to know what transpired in the council, and later on French ambassadors often had full and accurate accounts. In 1665 a certain one wrote: "High words at the Council Table on Friday last; insomuch that the Lord Treasurer told the Duke of York that he lied; then the Duke told his Majesty that if he would not take my Lord's stick away, he would not come any more to Whitehall."[136] Much, perhaps, leaked out through writing that was proper enough. In 1673 one of Williamson's correspondents told him that parliament had been prorogued the day before, after a long debate in council whether it should be that or a dissolution.[137] In 1679 a certain one included in his letter account of a hot debate in the council with regard to a proclamation about parliament: Lord Essex urged the king to issue it; the lord president, the lord chancellor, and the bishop of London opposed.[138]

There were times when parliament sought to obtain information about what had been done in the council. During a debate in the commons in 1674 one of the mem-

[134] S. P. D., Charles II, cccxxxii, 10 January 1672-3.

[135] *Le Fleming MSS., H. M. C.*, 12th report, appendix, vii. 165.

[136] Letter of a lady to the earl of Dorset, 27 September 1665: *De la Warr MSS., H. M. C.*, 4th report, appendix, p. 303.

[137] T. Derham to Sir Joseph Williamson, 5 November 1673: S. P. D., Charles II, cccxxxvii.

[138] Charles Hatton to Viscount Hatton, November 1679: *Hatton Correspondence* (Camden Society, new series, xxii), i. 203.

bers said that a privy councillor might be examined by the house of commons, and, without breaking his oath as a councillor, answer.[139] A little later, however, another one speaking in the house declared: "If a Privy Counsellor be asked, 'who advised the King such things at the Council Table,' he is obliged not to tell you, but generally 'how affairs stand as to the revenue in *Ireland*,' he may be asked."[140]

During this period, as in the period preceding, the king's principal officers, like the lord chancellor or the lord keeper, the lord treasurer, the lord privy seal, the officers of the household, and the secretaries of state attended with much regularity, and were to a great extent the efficient part of the council in conciliar work. Sometimes Prince Rupert took great interest in council affairs, and came assiduously to meetings. During 1673 the speaker of the house, not a member of the council frequently attended, and in August was even added to the Irish committee of the council.[141] The secretaries of state, especially that one of them who for the time being was most in the confidence of the king, did a great deal of business in connection with the privy council. This was particularly so in the years from 1660 to 1679 when no lord president was appointed. Through the hands of the secretary passed numerous papers and petitions, which he delivered to the king or to the council, and concerning which he frequently gave directions under command of the king or in accordance with action of the council. Among the secretary's papers for 1666 is a long petition with endorsement on the back: "Read in Councill. 3^{d} Augst 1666 nothing donne."[142] In 1676 the secretary

[139] Anchitell Grey, *Debates of the House of Commons, from the Year 1667 to the Year 1694* (London, 1763), ii 258.

[140] *Ibid.*, ii. 442.

[141] P. C. R., lxiv, 8 August 1673.

[142] S. P. D., Charles II, clxvi.

communicated a certain matter to the king, who ordered that it be brought before him in the council.[143]

Council records were kept much as in the time of Charles I. Notes of the proceedings or memoranda were apparently taken by those present, when and as they wished, and much miscellaneous information concerning council proceedings remains scattered in the manuscripts of various collections. Some notes and many council papers passed through the hands of the secretaries and remained there, and a great deal of information about what was done in the council or concerning what was done in consequence of decisions made in the council remains now in the letter books of the secretaries of state. The formal record of the council meetings, as before, was embodied in the register of the council. Minutes of the meetings were taken by one of the clerks of the council.[144] From these rough minutes was afterward written out the formal fair record now contained in the volumes of the register, a record authoritative and full with respect to attendance, business transacted, and orders or decisions thereupon, but bare with respect to debates, reasons, conflicts, and feelings, and devoid of any information about many of the higher matters, since now the more important things were not being brought before the council until after the real decision about them had been made.

During this period the main factors in the relations between king and council, and between parliament and council, were that the king was constantly giving less of his confidence about important affairs to council, and that

[143] Sir Joseph Williamson to the bailiffs of Yarmouth: S. P. D., Entry Books, xliii, 2 September 1676.

[144] For example, "Minutes of Privy Council, 1661-1670": Stowe MS. 489, which were taken by Sir Edward Walker, clerk of the council, during those years.

parliament, conscious of increased power, was as constantly striving for more control over executive and administrative work by obtaining more control of the ministers of the king. According to the form of the present then and the fact of the past these ministers had assisted the king largely in his privy council. It was privy council, therefore, which parliament wished more and more in some fashion to control. Parliament was aware that the state affairs were often not managed now in council, and that government was passing to a smaller body, under the king, which opponents stigmatized as "the committee," the cabal, or the cabinet. To parliament this appeared as a temporary aberration only, an abuse of the proper practice which ought to be restored and strengthened. Accordingly, during this time there was—as there was more of it later on—some attempt by parliament to insist that council business should be transacted in the privy council, and then to hold privy councillors accountable to parliament for that which they did.

Andrew Marvell in one of his poems satirized the king and his council: [145]

> I'll have a council shall sit always still,
> And give me a licence to do what I will.

But register and state papers make it evident that Charles II not only attended the council with great regularity, but spent much time working both with the select body of advisers in his cabinet or foreign committee, and in the larger body of his privy or general council. In 1667 Sir Joseph Williamson noted the petition of certain late farmers of the excise to the council "where the King is pleased now to doe all his businesse of all kineds." [146]

[145] Marvell, "Royal Resolutions", *Works* (London, 1776), iii. 343.

[146] Sir Joseph Williamson's Journal, 26 September 1667: S.P.D., Charles II, ccxxxi. 59.

In Clarendon's opinion, the privy council, next to the king, was the most sacred body in England, and of greatest authority. No king could so well support his own prerogative as by upholding the dignity of the council. The greatest office in the realm did not in itself entitle a man to be of the council, for by the constitution of the kingdom and by the laws and custom of the nation, every member of the council was the choice of the king, and must be sworn of the council itself.[147] From the first, however, it was evident that Charles II was disposed to take from the privy council much of actual management and real decision, as Charles I had done.

In 1665 Sir George Downing proposed an amendment to the bill of supply, by which parliament would make appropriation for a particular purpose. The king considered this matter secretly with a few. Then it was debated before a private gathering at Clarendon's house, where Downing was present. Here, Clarendon says, he upbraided Downing severely for presuming to propose a design that concerned the whole fabric of the exchequer, in which he was an inferior officer—one of the tellers, without first communicating it to his superiors, and receiving their advice thereupon. He told Downing " it was impossible for the king to be well served, whilst fellows of his condition were admitted to speak as much as they had a mind to; and that in the best times such presumptions had been punished with imprisonment by the lords of the council, without the king's taking notice of it." He says, however, that some of the king's advisers took this amiss saying that so the king would know nothing of his own nearest concernments but what his chief ministers thought fit to tell him.[148]

[147] Clarendon, *Life and Continuation*, ii. 297.
[148] *Ibid.*, pp. 230, 231.

Clarendon himself had done not a little to diminish the importance of the council. Apparently he thought it right enough for the king to be advised by a small number of confidants, provided they were of the privy council, whether they sat in council or not. During much of this time it was at his house that the foreign committee, or cabinet met. Moreover, in meetings of the privy council itself Clarendon quietly did important business with the king, while sometimes he urged Charles to withhold matters of moment from the body of the council. In 1661 at a session of the council, apparently during routine to which he was paying little attention, the king passed him a note saying they must meet in private about Ireland. The lord chancellor scrawled his reply: [149]

> I thinke I shall in the businesse of Irelande tell you what is to be done as to the government: and if you please to walke one turn in the gallery after councell, you will be able the better to præpare for to morrow.

The king answered:

> I will.

Next year the following notes were exchanged: [150]

> *King:* The secretary has a letter from my Ld Retherford which takes notice of the rumore of parting with Dunkerke, and desires to know the truth of it, What answer is to be giuen?
>
> *Chancellor:* That the Secretary nether knowes or belieues any such thinge—but I would be glad to speake with you upon this argument, that it may be resolued how farr to communicate it, at the next Councell, which is Friday.

[149] *Notes Passed at Privy Council*, p. 33.
[150] *Ibid.*, p. 71.

What Clarendon did with the king was done also by others. There had indeed, in the time of Charles I, of James I, even of Elizabeth, been much tendency to conduct important affairs apart from the council. During all that period the tendency had gone on increasing. James I had reserved much to himself or else deliberated upon it with a favorite or with a few most trusted councillors, while Charles I had steadily transacted his most important concerns in first instance in the committee of the privy council for foreign affairs, which men were calling junto or cabinet council. Now after the restoration this tendency went on apace, Charles II's own inclinations readily lending themselves to government by cabinet or cabal, and the size of the council almost requiring such a device. The privy council continued to be busied with a vast number of affairs; much of the business transacted there was necessary and important; and the important things were finally sanctioned in the council even though they had been decided in some smaller group. None the less, men noticed gradually more and more that real grasp of affairs was passing from the council, and it was said that in many cases the body of the council not only lacked power but was even ignorant of what was intended. In 1667 Thomas Povey, well informed about affairs around Whitehall, gave his impressions to Pepys: "He do assure me, from the mouth of some Privy-councillors, that at this day the Privy-council in general do know no more what the state of the kingdom as to peace and war is, than he or I; nor knows who manages it, nor upon whom it depends." [151] In 1678 there was an angry debate in the commons on the king's cabal. One speaker declared the privy council now signified little except for examining the miscarriages of some non-conformist minister or

[151] Pepys, *Diary*, 24 June 1667.

some justice of the peace; business of state was in the hands of three or four persons.[152] The power of the privy council was also weakened, as doubtless often before, by desire of councillors to curry favor with the king. In 1663 Sir Thomas Crew told Pepys that if any of the sober councillors gave Charles good advice, and tried to persuade him to anything to his honor and good, the others, that were his councillors of pleasure, worked upon him when he was with Lady Castlemaine and in a humor of delight, and persuaded him he ought not to listen to those old dotards that were once his enemies, "when, God knows! it is they that now-a-days do most study his honour." [153]

After the first rejoicing that followed the restoration of Charles II, amidst increasing discontent with the king's foreign and religious policy, and because of much obvious mismanagement of things, parliament became more and more critical of the king and his council. For some time the indignation resultant fell mostly upon the council, since the maxim was that "the King can doe noe wrong though his Counsell may." [154] More and more in parliament was the work of the council suspected or condemned. There was growing desire that the council should more completely manage the government and at the same time be more under parliament's control. During the debate on the king's speech, in October 1673, privy councillors were attacked in the commons with fury, "being termed villanous Councellors." It was said that they who had spoken in council in favor of the declaration of indulgence—the earl of Anglesey and the duke of Lauderdale, perhaps—had been rewarded with rich preferment after

[152] *The Camden Miscellany* (i): *Diary of Dr. Edward Lake* (Camden Society, xxxix), pp. 27, 28.

[153] Pepys, *Diary*, 15 May 1663.

[154] S. P. D., Charles II, cccxciii, 21 May 1677.

parliament adjourned.[155] Councillors sheltered themselves behind the king's prerogative, and pleaded that they merely gave obedience and advice. In the house of commons in 1677 Secretary Coventry said: "he is of opinion, that the King is not obliged to follow either his Privy Council, or Parliament, if his opinion and reason be against it." [156]

[155] Letter of Sir Christopher Musgrave to Sir Joseph Williamson, 3 November 1673: *Letters Addressed from London to Sir Joseph Williamson,* etc., ii (Camden Society, new series, ix), p. 59.

[156] Grey, *Debates,* iv. 385.

CHAPTER XVI

THE CRISIS IN THE HISTORY OF THE PRIVY COUNCIL

THE history of the privy council during the seventeenth century, and afterwards throughout the eighteenth, is a record of decline and diminution of power. In the time of Elizabeth the government of England, under the sovereign, was mostly in the privy council. This continued under James I, though that monarch often withheld for himself or for consideration by a favorite or a few confidants the more important affairs of the state, as, indeed, Elizabeth and others sometimes had done. Furthermore, increasingly apparent was a new tendency for the more weighty affairs to be dealt with effectively in an important committee of the council, so that in reality a few of the members or a smaller body began largely to supersede the privy council. What was only beginning in the latter part of the reign of James I continued steadily during the reign of his son. In the time of Charles I a committee of the privy council so far superseded the council in real direction of policy and high state affairs, that this is truly the period of the origin of the cabinet council.

After 1640 the privy council and all its committees declined along with the crown. The privy council, first shorn of some of its powers and deprived of Star Chamber, through which councillors had been wont to enforce decrees which they issued in council, disintegrated, and disappeared about 1645. Thereafter, until 1660, there was no privy council of the king in England. Almost at once parliament set up a conciliar body, which was followed by various others, to replace privy council. All of

the new bodies were made as thoroughly dependent on parliament as could be done. After a while, though no king could yet be accepted, the executive was made more as in the earlier times, and, presently, under the protectorate there was a privy council again. The fall of the protectorate brought back councils of state, as under the commonwealth preceding; and one of these councils was the only government of England in the weeks between the final dissolution of Long Parliament and the assembling of the Convention Parliament that called back the king. The restoration of Charles II brought the king's privy council again.

The privy council of 1660 had the position of the council in 1641, when the Long Parliament had lessened its power. Except for the diminution of its functions then made by statute, it might seem to hold now the high estate of Elizabeth or James I's council. It was the council of the sovereign, to many people the most august and useful body in England, less important, indeed, than parliament had come to be, but actually carrying on far more of the business of government than parliament did, and more constantly affecting the people of England.

Actually, however, the council did not regain its old high position, and after events would prove that it could not. What Charles I had begun Charles II readily carried on farther. The generality of men might believe that the king's privy council was the instrument through which the monarch governed his kingdom, and they might give it reverence as a most august body in the realm. To the well-informed and to those about court it was evident, however, that the council had imposing exterior and the shadow of greatness rather than reality of power. Men knew that Charles's greater affairs were considered first of all with some few of his most trusted councillors, and often decided before ever they were brought before the

body of the council. Some thought this desirable or not to be avoided, since the council was too large for the ready handling of important matters and for certain preservation of secrecy in managing foreign affairs. Some, perhaps, saw in the development no more than growth, out of the large privy council, of a small new effective council, even as the privy council—so antiquaries said—had emerged from councils preceding.

Most men, perhaps, who knew of the decay of the privy council had regret. Often they ascribed the mismanagement and failures of the period to the king not managing his government in the good old way, with the help of his council. The new, smaller, secret body, of which they were darkly aware, they stigmatized with names of dislike or contempt, and they believed that supersession of privy council by cabinet or cabal made possible intrigues and machinations by evil councillors at court.

All through the latter half of the seventeenth century parliament was attempting to enlarge the victory it had gained through the fall of Charles I and the triumphs of Cromwell. Too radical revolution and subsequent oppression of the majority had, indeed, been followed by large revulsion. Wild enthusiasm welcomed Charles II. The parliament, which was shortly called by royal proclamation, expressed boundless loyalty and wish to gratify the monarch restored. But it was from the first evident that conditions were not as they had been. King was less powerful than in 1638, and parliament far greater than it had been before the civil wars. After a brief time admiration and affection were cooler, and tendency to be critical and observant came with failures and maladministration. So, the contest between parliament and king was shortly resumed, and fought out steadily year afer year. Parliament strove to win more than had been ob-

tained; after a while the king sought to regain some of what had been taken from the crown.

There were many vicissitudes. Opposition, sometimes sullen, sometimes violent, increased. In 1681 the supporters of the king and parliament's faction were again at the brink of civil war. The king felt it safer to call the parliament to assemble in Oxford, and then he suddenly dissolved it. For a while there was great reaction in favor of the king, and Charles II, after able and unscrupulous management, died with much regained of that which his father had lost. Then the rash but honest James II flung aside the crown's advantage, rousing his subjects to the support of parliament in the only way that this was possible, by entangling Protestant England, so it seemed, in the last great effort of the Catholic Counter-Reformation. Again the king was overthrown and the triumph of parliament was finally and surely complete. After the Revolution of 1688, the ascendancy of parliament was confirmed by the Bill of Rights (1689) and afterwards by the Act of Settlement (1701), and effectiveness was given to the ascendancy acknowledged thus by statutes and procedures immediately put into effect. By the end of the seventeenth century parliament was as certainly the foremost power in the realm, as the crown had been when that century began.

During the process of this struggle, in the second half of the seventeenth century, parliament attacked not so much the king as the king's council. In 1688, as in 1640, evil counsellors were blamed, and in the time intervening it was wrongful or malign counsel given to the crown that was censured. During this time, as so often before when parliament's pretensions waxed high and leaders of parliament sought larger control, it was the council which they would make more obedient and answerable to them. After 1660, when all power of taxation was under con-

trol of parliament, it was increasingly necessary for the king through ministers or members of his council to try to please parliament or answer parliament's complaints. When things went wrong ministers were attacked for advice they had given to the king. Sometimes they were impugned for what had been done in privy council; but the commons were more and more aware that what they condemned most was apt to have taken place in that committee of the king's most trusted councillors which outsiders called cabinet or cabal. Relatively speaking, the privy council was well understood, and parliament might, perhaps, hope for increasing authority over its members. The cabinet or committee of foreign affairs, seemed as yet a mysterious but powerful body, too elusive and too much removed for parliament to make its authority felt. Hence, in the course of its further rise, parliament trying to assert ascendancy or control over the privy council, at the same time strove to retard the evident decline of the council resultant from transferrence of power to the foreign committee. Parliament wished to restore the council's earlier greatness, make certain that council business, however important, would be transacted in the privy council, compel the privy councillors to sign all their orders, then hold the privy council responsible to parliament itself.

In the second half of the seventeenth century parliament was striving to accomplish with the privy council something of what it finally brought about in the case of the cabinet council. In this effort it failed because the means were not yet clearly understood and the devices not fully worked out—political parties were thought of as factions, and "government" in parliament and council offset by "opposition" in parliament scarcely yet comprehended. It failed also because it could not maintain the real power of the council, and so by controlling the

council win indirect control and ascendancy over the executive organs. During the eighteenth century much, though not all, of this control was obtained in respect of the cabinet council.

A crisis came in 1679, when parliament's leaders were able to wring from Charles II a reform of the privy council which appeared very thorough then, and which might have restored the power of the council had that been possible by any reform. In 1679 Charles remade his privy council partly in accordance with what he thought were the wishes of the majority in the house of commons; he promised to limit the number of the council thereafter to what was considered the proper size; he promised that council business would be done in his privy council; and he promised that he would not have cabinet councils in the future.

The importance of this change has seldom been enough understood, as the importance of the Revolution of 1688 has sometimes been rated too high. That revolution was successful, its results, important enough, were celebrated again and again, and rendered more brilliant and enduringly famous by one who made his story an epic. But the attempt to reform the privy council was followed by failure speedy and complete. It soon ceased to recall the attention of those who had seen the experiment made; and afterwards it was remembered only as an incident by historians of the contest between Charles II and those who opposed him.

Yet, had success attended the reform of the privy council as it seemed to be planned and as Charles II announced it, there might have been no revolution of 1688, and the whole course of English constitutional development might have been anticipated and sooner carried forward. It was not, indeed, important whether a privy council, which had once handled so much of the executive business

of the kingdom, should be brought in close association and coöperation with parliament, or whether, as actually happened, this same thing should come about in respect of parliament and a cabinet council that had largely superseded the privy council. What was slowly worked out in Great Britain after 1714, however—taking over from the crown administration and execution by a group of ministers forming a council, they rendered more and more the servants of parliament, and acting largely in coöperation with parliament—that might have been developed in the latter part of the seventeenth century, had Charles II needed to keep his promise thereafter to transact government in the privy council which should to some extent represent the wishes of parliament's leaders and important interests in the kingdom.

Account of this episode makes an intricate and difficult story, some aspects of which may never be settled completely. It is not that evidence is scanty; a store of information remains. Yet in the midst of this abundance nothing appears to answer some of the most crucial questions. One cannot do more than state approximately and with some conjecture who were the authors of the plan and what were the authors' intentions. The constitutional development is entangled with political machinations and courtiers' intrigues.

For many years after the waning of the first great joy that followed the restoration, Charles II declined in the estimation of many who were interested in government affairs. This was partly from increase of difficulties for which Charles was not entirely to blame. It came partly from his carelessness and love of pleasure. It arose more from his cherishing a foreign policy which many of his subjects instinctively opposed. It followed also because so far as he could he supported a religious policy which the mass of his subjects hated and feared.

In 1667, after the disasters of the Second Dutch War Pepys noted the unpopularity of the king: "Here a prince, come in with all the love and prayers and good liking of his people, who have given greater signs of loyalty and willingness to serve him with their estates than ever was done by any people, hath lost all so soon, that it is a miracle what way a man could devise to lose so much in so little time." [1] In 1670 the king and a small group of his most trusted councillors entered into the secret treaty of Dover with France, and two years later England began to assist France in an attempt to crush the Dutch Netherlands. From this contest, the Third Dutch War, after great efforts and small success, Charles was forced to withdraw by rising fear of France among his subjects, and increasing dread among them that danger threatened their Protestant religion. Meanwhile, in 1672, Charles acknowledged his bankruptcy by resorting to the stop of the exchequer. Thereafter he sought to eke out insufficient income by beseeching an unruly house of commons to grant him supplies or else by persuading Louis XIV to give him secret subsidy, while Louis was secretly paying members of parliament to maintain opposition to their monarch. In 1669 Charles had revealed to his brother and a few of his councillors that he wished to embrace Catholicism and set it up again in England. In 1672, after making decision in the committee of foreign affairs, he issued from his privy council the declaration of indulgence, which his subjects regarded mostly as an attempt to favor the Roman Catholics in England, and which he had to rescind a few months later. The victorious opposition now proceeded to pass the Test Act, designed to make it impossible for one not of the Church of England to hold any office in the government save that of the king—which was to be the object of

[1] *Diary*, 12 July 1667.

later, more bitter attacks. Charles did, indeed, change his religious policy then, at least for the time, and such policy was not resumed until in the next reign it cost his brother the throne. But a vast amount of prejudice and fanatical opposition had now been aroused, and for some years opposition to the king increased. In 1678 Titus Oates and Dr. Tongue declared that a monstrous "Popish Plot" threatened the safety of king and of church. A wave of fury and religious prejudice now bade fair to engulf the throne. Charles yielded fully and completely until the storm passed, but for a moment the crisis seemed desperate. Afterwards a supporter wrote: "It is very certain that never was a Court seen of such a composition, and a melancholy sight for a true good subject to see, and even in the bed chamber of Lords and Grooms there were but very few that the King could confide in." [2]

For some time parliament had been attacking the king's policy and actions through his councillors. This culminated in the impeachment and threatened attainder of Danby, lord treasurer, in 1678-9. Thence it proceeded to attack ministers who transacted privately with the king business which, as was said, should have been done in privy council, where councillors should be responsible for it. In May 1678, during a debate in the house of commons, members asserted that the difficulties of the kingdom arose from the king acting on the advice of private ministers, that a cabinet had brought the nation into trouble, that a cabal was not established by law, that evil ministers should be removed.[3] In December of that year, during the debate about the choice of a speaker, a member said: "I have observed that, of late, those things of the greatest moment are done without any Council at all;

[2] *Memoirs of Thomas, Earl of Ailesbury* (Roxburghe Club, 1895), i. 37, 38.

[3] S. P. D., Charles II, ccccciii, 7 May 1678.

done in a corner. As for the Prorogation and the Dissolution of the last Parliament, there was not one word of the advice of the Privy Council in it. I fear no advice was asked." [4]

For some years there had been talk of so changing the administration that parliament and the nation might trust it, and discontent be allayed. At a meeting of the council in 1665, gossip said, there were high words: "there was some others spoke, and desired the Treasury might be divided into 3 parts, and that 3 should manage it, one Lord and two Commoners; and if it might be so, when the Parliament sits they would raise the King what money he pleased." [5] In 1668 Pepys heard that there had been a scheme for putting out some of the council to make room for some members of the house of commons opposed to the king, and so please them; but that the project had been abandoned, since it might displease others not provided for and so raise up new opponents.[6] About this time, however, various standing committees of the council were appointed, and regulation made of their work along with that of the council.[7]

At this time opposition to the king was very great, his position was difficult, and his reliance on his council less than it had been. "The great Intrest that is now driven on in this Kingdome is by the Duke of Buckingham, who heads the Fanaticks and guided by their Councells, the K: complyes wth him out of feare . . . In the meane time the K: destitute of Councell is iealous of all men that speake to him of businesse." [8] In 1673 Charles being in

[4] Grey, *Debates*, vi. 408.

[5] Letter of a lady to the earl of Dorset, 27 September 1665: *De la Warr MSS., H. M. C.*, 4th report, appendix, p. 303.

[6] *Diary*, 5 January 1667-8.

[7] S. P. D., Charles II, cclii, 31 January 1667-8.

[8] Viscount Conway to Sir J. Finch, February (?) 1668: *ibid.*, ccxxxv. 222.

further perplexity because of the Third Dutch War and the storm over his Declaration of Indulgence, a correspondent wrote: "The town talkes of great changes to bee amongst Our Ministers and in the Councill, but noe considerable reasons occurre to mee to make mee to give much credit to these discourses." [9] Opposition and confusion increased. In 1675, according to the account which Sir William Temple afterwards wrote, Shaftesbury, angry because of his fall from the high position he had had at court, ceased not, in parliament and in the city, to condemn the conduct of the ministry, and to censure the court, blaming its partiality for France. Lord Arlington was jealous of the growth of the influence of the lord treasurer, Danby, and the decline of his own. He encouraged the commons not to give the king money while the lord treasurer remained in power. He was urging the king to recall the English troops in French service, though a greater number were abroad in the service of the Dutch.[10]

With many vicissitudes opposition continued and increased. In 1678 came the "Popish Plot," then the dissolution of the Cavalier or second Long Parliament, then in 1679 the fall of Danby under the attacks of the new parliament. Early in January 1679 Barillon wrote back to his master that the king of England had begged for assistance from France, saying that he would refuse no conditions.[11] About this time Sir William Temple, who had been negotiating the Treaty of Nymwegen, was recalled by Charles. "I never," he says, "saw any man

[9] William Bridgman to Sir Joseph Williamson, 11 July 1673: *ibid.*, cccxxxvi, part i.

[10] Sir William Temple, *Memoirs, Works* (London, 1814), ii. 316, 317.

[11] "Il m'assura que Vostre Majesté pouvoit luy prescrire telles conditions quil luy plairroit, et quil ne refuseroit riens de ce quelle croiroit raissonable." Barillon to Louis XIV, London, 12 January 1679 (N. S.): Transcripts from Paris (Baschet), xl.

more sensible of the miserable condition of his affairs, than I found his Majesty upon many discourses with him . . . he told me, he had none left, with whom he could so much as speak of them in confidence, since my Lord Treasurer's being gone. And this gave, I suppose, his Majesty the occasion of entering into more confidence with me, than I could deserve or expect." [12] The preceding parliament had been dissolved after negotiations in which Charles and Danby had tried to come to an understanding with the dissenters.[13] Yet in the newly elected parliament the court could count certainly on no more than thirty members, so sweeping was the opposition's triumph. Temple says that from the disposition that appeared in both electors and elected it was easy to presage in what temper the houses would probably meet.[14] The worst anticipations were confirmed when parliament assembled. Each day it grew more violent, and it soon seemed that the king must dissolve this parliament also. However, so little authority now remained in the crown that it appeared too dangerous to dissolve it and try to get on without parliament until "the present humours might cool." [15]

For the moment Charles bowed to the storm completely, humbling himself before the opposition and striving to attach some of the most dangerous opponents to his cause. On Danby's advice the duke of York was sent abroad, where he watched the succeeding events in an agony of fear and suspicion. Shaftesbury was the greatest and most feared of the king's opponent's and him it was

[12] *Memoirs*, pp. 506, 507.

[13] "La Cassation du Parlement a esté une suite de la negociation que Mr le grand Tresorier avoit commancée avec les presbiteriens. Milord Hollis m'a consulté et m'a fait sçavoir toutes les offres que la cour leur faisoit." Barillon to the king of France, 9 February 1679 (N. S.): Transcripts from Paris (Baschet), xl.

[14] *Memoirs*, p. 491.

[15] *Ibid.*, pp. 507, 508.

hard to appease. But some of the more moderate of the opposition and their connections were won, and through them the way was paved for larger changes to follow. The earl of Sunderland, nephew of Lady Shaftesbury, who liked Shaftesbury and held him in awe, was recalled from the embassy in Paris and made secretary of state in Sir Joseph Williamson's place The earl of Essex, not irreconcileable, yet one of Shaftesbury's best friends, was made first commissioner of the treasury, from which Danby had been cast down.[16] Thus by the beginning of 1679, Charles II was trying to make concessions in time, and king and leaders of the opposition were drawing a little together.[17] In March 1679 the duke of York, then in Brussels, already knew that further action was intended. Writing to the earl of Dartmouth about the efforts of his friends to bring him back to England, he says: "but of this I shall say no more till I hear how things go where you are upon the Alteration you tell me is like to be." [18]

Temple, whose account of all these transactions is the most pretentious, says that Shaftesbury, Essex, and Halifax had entered into close understanding with the duke of Monmouth, resolving to make use of his credit—which was still large with the king—and to support it by their own in parliament.[19] According to him, Danby was removed by the influence of the Duchess of Portsmouth, Monmouth, and Essex who was then greatly in the

[16] "The *King* certainly inclines not to be so stiff as formerly in advancing only those that exalt *Prerogative*; but the Earl of Essex, and some others that are coming into play thereupon, cannot avoid being suspected of having intentions different from what they have hitherto professed." Algernon Sydney to Henry Savile, 7/17 April 1679: *Letters* (London, 1742), pp. 24, 25.

[17] W. D. Christie, *Life of Shaftesbury* (London, 1871), ii. 320; Richard Lodge, *The History of England from the Restoration to the Death of William III. (1660-1702)* (London 1910), p. 159.

[18] Letter of 28 March 1679: Add. MS. 18447, fo. 2.

[19] *Memoirs*, p. 491.

confidence of Sunderland and Monmouth. The four of them, thereupon, resolved to bring Shaftesbury again to the court.[20] Much about what then took place will, in all probability, never be known. It appears that Charles II presently determined to attach Shaftesbury and others to his side for the time being by making any sacrifices that were required. He would reorganize his ministry and council to include the leaders of the opposition—and thus try to end their attacks for the moment; and he would reorganize his council and change the methods of conducting business so as to meet his opponents' wishes.[21] It was of this impending reform of the privy council, probably, that James had heard in his exile.

In April 1679 the French ambassador wrote back to his government that Shaftesbury, Halifax, and the other opposition leaders were beginning to show good intentions to the king, who was also making advances, and appeared willing to follow their advice. What the outcome would be those best informed professed not to know.[22] He also said, however: "I am informed that a secret negotiation has been going on for some days between the principal chiefs of the parliamentary debates and the King of England, as to an entire change in the Privy Council and the direction of finance, and as to placing the highest offices and administration of affairs in the hands of those who have been hitherto the most

[20] *Memoirs*, p. 507.

[21] The comments of two of the older critics are interesting. "At last the king was prevailed on to dismiss the whole council, which was all made up of lord Danby's creatures, and the chief men of both houses were brought into it." Burnet (ed. Airy), ii. 209. "The king, hoping to gain a better humour, had done some considerable things, as sending away the Duke of York, offering expedients and, with others, reforming the privy council." Roger North, *Lives of the Norths* (ed. Augustus Jessopp, London, 1890), i. 234.

[22] Letter of 17 April 1679: Transcripts from Paris (Baschet), xl.

opposed to the Court. These promise that the King shall have enough money for the needs of state and for his private wants . . . I think I know that this business is apparently in the way of settlement.[23]

A few days after, the privy council which, with some alterations and additions, had served Charles II since his restoration, was called together for a meeting as often before. The king and eighteen were present. Ordinary business was transacted. A petition of William Penn was read, asking for return of certain of his papers: ordered that this be done. On petition passes were granted to a man and a woman to go into Germany, they to enter into bond of £500 each not to go to Rome and to enter no seminary abroad. A petition asking leave to begin suit at law against one of the king's officers was read and referred. Other passes were granted. A petition of the inhabitants of Jersey concerning decay of trade there was ordered to be heard at the first council meeting in May. Recommendations in a report from the committee of trade about certain negro slaves of Tobago were accepted, and ordered carried out. The petition of a certain one to be a maundy man: granted. The committee of trade reported it had prepared Lord Culpepper's commission, his majesty's instructions, and certain acts: the secretary of state ordered to dispatch them. On report of the committee of trade and plantations the king ordered a hundred and fifty barrels of gunpowder to be sent to Virginia.[24] Many of those present knew it not, perhaps, but this was the last meeting of that privy council to be held. With this record the volume of the register abruptly ends.

[23] Despatch of 17 April 1679, as translated in Christie, *Life of Shaftesbury*, ii. 326, 327.

[24] P.C.R., lxvii, 16 April 1679.

In January 1679 the privy council had contained forty-seven members, including the two princes of the blood:

The duke of York	
Prince Rupert	
The archbishop of Canterbury	
lord chancellor	Lord Finch
lord high treasurer	earl of Danby
lord privy seal	earl of Anglesey
duke of Albemarle	
duke of Monmouth	
duke of Newcastle	
duke of Lauderdale	
lord steward	duke of Ormonde
lord president of Wales	marquis of Worcester
marquis of Dorchester	
earl of Ossory	
lord chamberlain	earl of Lindsey
lord chamberlain of the household	earl of Arlington
earl of Oxford	
earl of Salisbury	
earl of Bridgewater	
earl of Northampton	
earl of Peterborough	
earl of Strafford	
earl of Sunderland	
earl of St. Albans	
earl of Clarendon	
earl of Essex	
earl of Bath	
earl of Carlisle	
earl of Craven	
earl of Aylesbury	

chancellor of Scotland	earl of Rothes
earl of Carbery	
earl of Orrery	
earl of Fauconberg	
treasurer of the king's household	Viscount Newport
bishop of London	
bishop of Winchester	
bishop of Durham	
Lord Berkeley	
comptroller of the king's household	Lord Maynard
vice chamberlain of the king's household	Sir George Carteret
secretary of state	Henry Coventry
secretary of state	Sir Joseph Williamson
chancellor of the exchequer	Sir John Ernle
master of the ordnance	Sir Thomas Chicheley
Sir John Duncombe	
Edward Seymour [25]	

The next day, 20 April, Easter Sunday, the earl of Anglesey, according to his diary, attended the king at Whitehall, where Charles received the sacrament. That afternoon all the councillors being summoned, the privy council was dissolved and a new one constituted.[26] The new volume of the privy council register begins: "His Ma^{ty} haveing Caused the Privy Councill to meete Yesterday Extraord: was then pleased to Order the Lord Chan-

[25] P. C. R., lxvii, fos. i, ii.

[26] Diary of the earl of Anglesey, 20 April 1679: Add. MS. 18730. "The King on Easter Day dissolved his Privy Council." Sir Cyril Wyche to the duke or Ormonde, London, 22 April 1679: *H. M. C., Ormonde MSS.*, new series, v. 58.

cellour of England to Read to them the following Declaration." [27]

The king had called them together to communicate " a Resolution Hee hath taken in a matter of Great Importance to His Crowne & Government." He hoped it would give greatest satisfaction to his kingdom in all matters domestic and foreign. He did not doubt their approbation, however they themselves might be concerned. He thanked them for past service and advice. But the large number of the council had made it unfit for the secrecy and the despatch that were needed in great affairs.

> This forced Him to use a smaller Number of You in a forreigne Comittee, and sometimes the Advices of some few among them, (upon such occations) for many yeares past. Hee is sorry for the ill success he has found in this Course, and sensible of the ill posture of affaires from that, and, some unhappy accidents wch have raised great jealosyes & dissatisfaction among His Good Subjects, & thereby left the Crowne & Government in a Condition too weake for those dangers, wee have reason to feare both at home & abroad.

The king hoped that wise and steady councils might prevent all this for the future. Therefore he would lay aside small and secret bodies, and would constitute such a privy council as might by its numbers be fit for all business, foreign and domestic. He would choose the members of this council from the several parts of the state: those best informed about it, and so best able to counsel him in matters affecting the crown. By the constant advice of this council his majesty would govern his kingdom, along with the frequent use of parliaments, " wch he takes to be the true Auncient Constitution of this State & Government."

[27] P. C. R., lxviii, 21 April 1679.

For the larger dignity of the council the number would with a few exceptions, be limited to thirty. For their greater authority fifteen members should be chief officers of the king, "who shall be Privy Councellours by their Places." Ten members were to be chosen from the several ranks of the nobility. Five were to be commoners of the realm "whose knowne Abilityes, Interest, and Esteeme in the Nation, shall render them without all suspition of either mistakeing, or betraying the True Interests of the Kingdome, and consequently of Adviseing Him ill." [28]

To some extent—and this seemed evident to contemporaries—members of the new council were to be grouped in pairs.[29] As the lord chancellor read the plan there were to be two for the church—the archbishop of Canterbury and the bishop of London: two to inform the king well about what concerned the law—the lord chancellor and one of the chief justices; for the navy and the stores, the admiral and the master of the ordnance; for the treasury, the lord treasurer and the chancellor of the exchequer. The other officers of the king in the council were to be lord privy seal, master of the horse, lord steward, lord chamberlain, groom of the stole, and the two secretaries of

[28] *Ibid.*

[29] "The K Made a New Model of his Councell, & took in all the discontents. Shaftsbury was prsident, & the rest were by two's. vizt 2. of the Comons. ld Russel. & H. powel. 2. peers 2. lawyers. &c. whereof the ld ch. Just. North was one." Lord Keeper Guilford, "Memoranda Historica", Add. MS. 32520, fo. 251. "Fifteen of these are to be as many of the great officers of the Crown; ten noblemen (two of each order) and five commoners." The members were to be lord president, lord chancellor, lord treasurer, lord steward, lord privy seal, lord chamberlain, groom of the stole, chancellor of the exchequer, master of the ordnance, master of the horse, two secretaries of state, archbishop of Canterbury, bishop of London, one of the lord chief justices, and the secretary of Scotland—if the king pleased; two dukes, two marquises, two earls, two viscounts, two barons; and five commoners. Sir Cyril Wyche to the duke of Ormonde, London, 22 April 1679: *Ormonde MSS.*, new series, v. 58.

state. To these offices "the Dignity of a Privy councellour, shall be annexed."

The other members of the council the king had chosen as he wished: he hoped not ill. There were to be, furthermore, such princes of the blood, being at court, as the king should at any time call to the board, a president of the council, and a secretary of Scotland, when one should be at hand. These latter the king did not reckon as of the number prescribed for his council. In any other respect the number of thirty would not be exceeded.

Accordingly, the present council, which had heard the king's pleasure, was dissolved. Let those present who were named of the new council attend the king at nine o'clock next morning. To members not present, letters already signed would be sent.[30]

The members of the new council were: [31]

*Prince Rupert
*The archbishop of Canterbury

*lord chancellor	Lord Finch
lord president	earl of Shaftesbury
*lord privy seal	earl of Anglesey
*duke of Albemarle	
*master of the horse	duke of Monmouth
*duke of Newcastle	

[30] P. C. R., lxviii, 21 April 1679. The summons to Temple was preserved among his political papers: "Whereas wee have found it Necessary for the Secrecy Dispatch and better conduct of all our Affairs both at Home and abroad, to be attended by a Select Number of Privy councellors, consisting of some of our Principall Officers, and of such other Persons of Eminent Worth and Ability, whom wee by our Letters to them Directed shall think fitt to call to this Service" therefore by command Sir William Temple was to attend and be sworn "of that Number upon whose Industry and faythfull Counsell Wee shall very much, and next to the Advice of our Great Councell in Parliament wholly, Rely, in all our Weighty and Important Concerns": Add. MS. 9800, fo. 146.

[31] P. C. R., lxviii, 21 April 1679. Those marked with an asterisk had been in the previous privy council.

*secretary of state for Scotland	duke of Lauderdale
*lord steward	duke of Ormonde
marquis of Winchester	
*marquis of Worcester	
*lord chamberlain of the household	earl of Arlington
*earl of Salisbury	
*earl of Bridgewater	
*earl of Sunderland	secretary of state
*first commissioner of the treasury	earl of Essex
*groom of the stole	earl of Bath
*Viscount Fauconberg	
Viscount Halifax	
*bishop of London	
Lord Roberts	
Lord Holles	
Lord Russell	
Lord Cavendish	
*Henry Coventry	secretary of state
lord chief justice of the common pleas	Sir Francis North
first commissioner of the admiralty	Sir Henry Capel
*chancellor of the exchequer	Sir John Ernle
*master of the ordnance	Sir Thomas Chicheley
Sir William Temple	
*Edward Seymour	
Henry Powle	

That is, the total number of the new council was to be thirty-three—thirty besides Prince Rupert, the lord president, and the secretary of state for Scotland. Of these

members twenty-two had been in the privy council preceding, though some had been recently admitted.[32]

The king promised that thereafter all letters summoning new members to the council would be signed in the council, "so that Nothing may be done unadvicedly in the Choice of any person to a charge of so great Dignity & importance to the Kingdome." "His Maty was also pleased to declare that he would have all his affaires here debated freely, of what kind soever they were, and therefore absolutely Secrecy."[33]

Next day Charles went to parliament and in the presence of the lords with the commons attending.

> His Majesty made this short Speech following:
>
> My Lords and Gentlemen,
>
> I thought it requisite to acquaint you with what I have done now this Day; which is, that I have established a new Privy Council, the constant Number of which shall never exceed Thirty.
>
> I have made Choice of such Persons as are worthy and able to advise Me; and am resolved, in all My weighty and important Affairs, next to the Advice of My Great Council in Parliament (which I shall very often consult with), to be advised by this Privy Council.
>
> I could not make so great a Change, without acquainting both Houses of Parliament.
>
> * * * *
>
> This being done, His Majesty withdrew.[34]

[32] For a "list of such of the former Privy Council as are left out of the new one," twenty-four names—it omits the duke of York, see a letter of R. Wentworth to J. Wentworth, 24 April 1679: *H.M.C., MSS. in Various Collections*, ii. 394.

[33] P.C.R., lxviii, 21 April 1679.

[34] *Lords' Journals*, xiii. 530. "The new Council was sworn, and the King came into the Lords' House in his robes, and having sent for the Commons to the bar, gave an account of what he had done and what he resolved to do; that he had dissolved one Council and chose another,

At this time, as at others, news concerning the privy council, changes in its membership, examinations before it, and other matters, were regularly published in the official journal, *The London Gazette*. In the issue of this same Monday, with respect to news of things about Whitehall the day before, appeared the notice: [35]

> His Majesty having caused the Lords of His Privy Council to meet extraordinarily this afternoon, was pleased to declare to them, That He had thought fit, for weighty Reasons, to dissolve the same, and to appoint another, to be composed of Thirty persons, who will accordingly meet to morrow. Of which, a farther and more particular Account will be given to the Publick.

Three days later the *Gazette* contained the notice: "His Majesties Declaration for the Dissolution of His late Privy Council, and for Constituting a New one, is made Publick by His Majesties Command." It was followed by a brief outline of the new scheme, and a list of the members of the reformed council.[36] The declaration was printed also as a broadside.[37]

Probably no event in the history of the privy council attracted more attention at the time than this. Except among the few in the secret before the announcement

who next his Great Council, who he resolved chiefly to be guided by, he resolved to consult; and therefore hastened them to consider of and despatch the public affairs depending before them." Thereupon the houses proceeded with their business—which had nothing to with the king's announcement. Colonel Edward Cooke to the duke of Ormonde, London, 22 April 1679: *H. M. C., Ormonde MSS.*, new series, v. 56.

[35] *The London Gazette*, 21 April 1679.

[36] *Ibid.*, 24 April 1679.

[37] *His Majesties Declaration for the Dissolution of His late Privy-Council, and for Constituting a New one, Made in the Council-Chamber at Whitehall, April the Twentieth, 1679. By His Majesties special Command. London, Printed by John Bill, Thomas Newcomb, and Henry Hills, Printers to the Kings most Excellent Majesty, 1679.*

there was much surprise. At first there was considerable gratification, since many believed that the scheme promised well. Others considered the outcome uncertain; some expected no good.

Probably the best informed man in England then, with respect to political affairs, was Barillon, the sagacious French ambassador. He was in constant and close communication with the duchess of Portsmouth, Charles's French mistress; and through his pensions, payments, and lavish use of secret service money, he had constant and excellent intelligence about all kinds of political happenings, from members of the king's court and from the opposition, from the king's enemies and from the king's servants and friends. Concerning this episode Barillon sent particular accounts to Paris, as, indeed, he was doing in respect of all other matters of importance.

In January and in February he related the miserable condition of Charles II's affairs, and in four several despatches reported that the king of England begged for assistance from the king of France.[38] Ten days before the change was announced to the council, the ambassador wrote that the duchess of Portsmouth and Sunderland seemed to have more credit than others, and more of the confidence of their master; that Shaftesbury and other leaders of the opposition were having secret negotiations with both of them, seeking through their influence to enter into office and favor; that Arlington had no part in the business.[39] Shortly after he wrote that a secret negotiation was going on about an entire change of the privy council and direction of the finances, putting into important offices of the administration the leaders of the opposition, they promising to give the king sufficient

[38] Transcripts from Paris (Baschet), xl, 9, 12, 30 January, 16 February 1679 (N. S.).

[39] Barillon to the king of France, London, 20 April 1679 (N. S.): Transcripts from Paris, cxlii. 219.

money—something, it may be added, that France had just refused to do.[40]

On the day when the change was made he wrote that Shaftesbury had been received back into the administration. Not without great repugnance had Charles brought himself to this resolution. He had been counselled that only so could he avoid losing all; that Strafford long ago, and more recently Danby, had been won to be ardent supporters of the crown after strongly opposing the court. The new council was to have cognizance of all affairs, domestic and foreign: there was to be no other council of the king—that which had been called council of the cabinet would be abolished entirely. Scarcely could a greater change take place in any government than that which the king of England had resolved on. Government was to be in the hands of those who for some years had striven against all his designs.[41] Several days before the duchess of Portsmouth had told him of the plan, of which he now gave details. She had expressed grief and apprehension that the king was reduced to put himself thus in the hands of his foes, and conduct his most important affairs through those who had so long oppugned him. She had not opposed the negotiations, of which she had been cognizant, through fear of attack in parliament. Sunderland also had joined in the plan through fear of being attacked there, and because he could not bear the weight of affairs alone. Monmouth was closely bound to

[40] Barillon to the king of France, 27 April 1679 (N. S.): Transcripts from Paris (Baschet), xl.

[41] "Il est difficile quil puisse arriver un plus grand changement dans le gouvernement d'un Estat, que celuy auquel le Roy d'Angleterre s'est determiné. Les affaires vont estre entre les mains de ceux qui ont depuis quelques années tesmoigné ouvertement s'opposer a tous les desseins de la cour, et a toutes les volontés de sa Majesté Britanique." Barillon to the king of France, 1 May 1679 (N. S.): *ibid.*

Shaftesbury, and he had exerted himself with the king to bring Shaftesbury back into affairs. In Barillon's opinion the establishment of the new ministers must be followed by utter ruin of the duke of York. What Charles had done had been done as the only means that remained for avoiding ruin, and because he hoped that in the satisfaction resulting he could obtain from the house of commons revenue necessary for the expenses of state, and even money for his own use.[42]

A few days later Barillon reported that Charles seemed well pleased with what he had done, and was treating with much confidence and familiarity those who had entered again into favor. He declared, however, that the demonstrations of public rejoicing had not been as great as were hoped for. The lord mayor of London had ordered bonfires the day public announcement was made. His orders had been carried out, but there was little zeal, and no large concourse of people. The house of commons, however, had declared that his majesty's resolution would be of great advantage to the kingdom.[43] A week after the change he reported that the outlook was dark, that confusion prevailed. Sunderland was asserting that the king's affairs would now take a better course; and that with time all would be well. Shaftesbury and Halifax intended to go further and propose to Charles measures that would destroy his authority altogether. They would replace all officials suspected by the nation, that is to say, those supporting the king.[44] The ambassador's most im-

[42] "Ce Prince a crû qui c'estoit le seul moyen qui luy restoit pour éviter une ruine entiere, et que la satisfaction qu'il donne a ses peuples fera prendre a la chambre basse tous les expediens necessaires pour soutenir les despenses de l'Estat, on luy fait mesme esperer qu'il aura de l'argent en son particulier." Barillon to the king of France, London, 1 May 1679 (N. S.): Transcripts from Paris (Baschet), xl.

[43] Despatch of 4 May 1679 (N. S.): *ibid.*

[44] "Le dessein de Milord Schafbery et de Milord Halifax et des autres qui sont entrés depuis peu dans le conseil, est de proposer dans peu de

portant criticism was made in conversation with Temple: "Monsieur Barillon said it was making *des Etats* [States] and not *des conseils* [councils]." [45]

James, duke of York, in temporary exile in the Netherlands when the change was made, had less opportunity to know the causes and details of the event than some others, but no one was more interested in them. Many letters remain sent to him by well informed friends in London together with his replies. James was not in the confidence of his brother when he left England. From Brussels in March he wrote that the decision to send him away had been taken "without my Knowledge or Consent . . . I long to hear by whose Means this Resolution has been taken." [46] When the news of the change reached Brussels, he wrote back at once that it was a great surprise to everybody there, the Spaniards as well as the English. He was prepared to hear of Shaftesbury coming to court and in favor again, but he did not expect so total a change, and could not believe so many loyal and worthy men should be laid aside.[47] Apparently friends urged him to effect an understanding with Shaftesbury, and he so far bent himself as to consent that others try to do it for him.[48]

jours beaucoup de choses a sa Majesté Britanique qui iront toutes a l'entier aneantissement de son authorité." Barillon to the king of France, London, 8 May 1679 (N. S.): Transcripts from Paris, cxlii. 233.

[45] Temple, *Memoirs*, p. 511.

[46] Duke of York to Lord Dartmouth, 28 March 1679 (N. S.): Add. MS. 18447, fo. 2.

[47] Duke of York to Lord Dartmouth, Brussels, 8 May 1679 (N. S.): Add. MS. 18447, fo. 6. See also *Dartmouth MSS., H. M. C.*, 11th report, appendix, v. 32.

[48] "As to what are advised concerning Ld Shaftsbury, I confess, I cannot bring myself to it, to write as was proposed, but if you speak to Ld Townsend, as from yourself, to sound Ld Shaftsbury, and to represent to him that he believes it may be in his Power to be well again with the Duke by doing any Thing to oblige him, for that now Ld Shaftsbury being well with the King, the Duke will easily be brought to live well

To the same effect he wrote to the prince of Orange, his son-in-law: the news of the new council, and Shaftesbury being the president of it had surprised not only himself but the rulers of the Spanish Netherlands, they not understanding any more than he why the king had displaced so many of his truest servants, and put all his affairs into the hands of persistent opponents. He dreaded the consequences, but hoped that his brother's affairs might be bettered: a short time would show.[49] Three days later, in another letter to the prince, who was also surprised and doubtful, he said he feared the change would have no good effect, for the last letters from England reported all the members of the commons advanced by the change had already lost their credit in that house, while new cabals and parties were arising among those not preferred, "so that, to tell you freely my thoughts, in my mind all things tend to a Republike. For you see all things tend towards the lessning of the King's authority, and the new moddell things are put into is the very same it was in the tyme of the Commonwealth, and I feare that hardly any that are new of the Councelle have courage enough to advise or stand by any vigorus resolution." [50] Shortly after he was still more depressed. His enemies were attacking him in parliament. Monarchy was in danger from the commonwealth party and some of

with him, his chief Exception to him being upon the King's Account: he may remember that the new E. of Danby, when Tres: of the Navy, was as ill with me as any one could be, having been brought into that Office whether I would or no: that so soon as I saw and believed he served his Majesty well I was Friends with him, and a good Friend to him too. Something of this Kind may be said but not as from me." The duke of York to Lord Dartmouth, 8 May 1679 (N. S.): Add. MS. 18447, fo. 6.

[49] The duke of York to the prince of Orange, Brussels, 8 May 1679 (N. S.): *Foljambe MSS., H. M. C.*, 15th report, appendix, v. 129.

[50] The duke of York to the prince of Orange, 11 May 1679 (N. S.): *ibid.*, p. 129.

those who had lately been admitted to the council, who governed the duke of Monmouth and were using him to ruin the king and the king's brother. "You see they would not fall upon me till the Councell was new moddelled." [51] In July, when he was still in Brussels, he wrote to another that the king was yielding to James's enemies, that the new privy council "have already began and will absolutely make him a Duke of Venice." [52]

In England there were various comments and judgments. On the day when announcement was made Algernon Sydney wrote that all with whom he had spoken were pleased, though it might have been wished that some left out had been chosen to the council.[53] One of the duke of Ormonde's correspondents wrote: "There is great expectation of great advantage from this new change." [54] Another wrote that the reformation was sudden and great, that to be well heard at court and well spoken of in parliament would be a great good fortune for the ministers to have.[55] In Holland there was some enthusiasm. Van Beunigen, the Dutch ambassador in London, is said to have declared that the shares of the East India Company of Amsterdam had risen fifteen per cent. since the king had resolved to change his council.[56] He had already written to the states general that the change was received with some uncertainty in England.[57]

[51] The duke of York to the prince of Orange, 14 May 1679 (N. S.): *ibid.*, pp. 129, 130.

[52] The duke of York to Lord Dartmouth, 22 July 1679 (N. S.): Add. MS. 18447, fo. 11.

[53] Algernon Sydney to Henry Savile, London, 21 April 1679: *Letters*, p. 34.

[54] Colonel Edward Cooke to the duke of Ormonde, London, 22 April 1679: *Ormonde MSS.*, new series, v. 56.

[55] Henry Coventry to the duke of Ormonde, Whitehall, 22 April 1679: *ibid.*, p. 57.

[56] Barillon to the king of France, 11 May 1679 (N. S.): Transcripts from Paris (Baschet), xl.

[57] Letter of 5 May 1679 (N. S.): Add. MS. 17677 EE, fo. 111.

In parliament no great encouragement was given. There was apparently some suspicion, and resolve to wait and observe. Coventry wrote to Ormonde that although the newly preferred members of the council had done neither good nor evil yet, some of them were suspect merely from having been preferred.[58] A few days after the change, during a debate in the commons, Colonel Birch said: "Are we come here to give Money, for some few new men being put into the Privy Council: and shall we do such things as we have done before? I hope the King will not leave one of the Council that was at the giving such advice as we have had . . . It must not be the addition of four or five persons to the Council that will do it; it must be thoroughly done." [59] A few days later another member said that the duke of Lauderdale and others being in the new council he could not but think it a project to save those who made it, and not something for the benefit of the nation. "What good can we expect from it? It is to put new wine into old bottles, and new cloth to piece up an old garment." [60] An address was proposed in the commons to remove Lauderdale. Another member said "I feare this change of the Council has done us no great good; the old leaven is there still." [61] Three weeks after the change Powle, one of the council members recently taken from the opposition in the commons, in the absence of Secretary Coventry, delivered a message from the king, asking money for the fleet. In debate ensuing it was evident that the commons distrusted the council: there were dangerous members in it; the good ones might be dismissed.[62]

[58] Letter of 22 April 1679: *Ormonde MSS.*, new series, v. 57.

[59] Grey, *Debates*, vii. 144, 145. Apparently this is the first notice by a member of the house of commons of the change of the council.

[60] *Ibid.*, p. 189.

[61] *Ibid.*, p. 197.

[62] *Ibid.*, pp. 265-78.

There was at the time, and there has been more of it since, no little interest in knowing who was responsible for the change and who was the author of the plan by which it seemed to be made. In course of time it was asserted that the alteration was made in emergency and stress, but based none the less on a carefully conceived plan for conciliar reform. This idea came principally from the account written by Sir William Temple, in which he took credit to himself. The account is embodied in his *Memoirs*, written in retirement, the original preserved now in the British Museum.[63] An unauthorized edition was printed in 1691, but the first regular publication was in 1709. In his own day Sir William's style was renowned, and he still has an honorable place among writers of second rank. Accordingly, his account of the events of 1679, one of the most interesting parts of the narrative, obtained wide attention. It became still better known when Macaulay in 1838 wrote his essay on Sir William Temple, one of the most brilliant and interesting pieces that he ever composed. In admirable exposition, with some excellent comments of his own, Macaulay followed the account which Sir William Temple had written long before. The simple and brilliant narrative of Macaulay and Temple will doubtless long hold its own.[64]

Temple says that on being called back to England early in 1679, he found parliament every day growing more violent, so that the king might have to dissolve it, but

[63] Add. MS. 9804.

[64] The author has never chanced upon any information concerning Macaulay's method in writing this essay nor anything about the sources which he consulted. It is probable that Macaulay was led to his conclusions by the book he was then reviewing: T. P. Courtenay, *Memoirs of the Life, Works, and Correspondence of Sir William Temple, Bart.*, etc. (London 1836). Courtenay ascribes authorship of the plan entirely to Temple (ii. 34-44), but he bases his account almost altogether on Temple's works.

so little authority remained in the crown that it might be dangerous for Charles to do this or attempt to get on without another. He says, in effect, that a new dangerous "Ministry" had appeared, composed of Monmouth, Essex, and Sunderland, to which possibly Shaftesbury was about to be added. It was very desirable to check the growth of the power of this combination. Accordingly, he conceived the scheme of a new council constituted so as to gain credit with parliament, by including the foremost members, and thus give peace to the king and the people. With such a council the king might more easily dissolve parliament if that had to be done. For this purpose it would be necessary to take into the council "some Lords and Commoners who were of most appearing credit and sway in both Houses, without being thought either principled or interested against the government." With them were to be mingled others of the king's more general choice, so making up half of the council. The other members were ever to be the present chief officers of the king's crown and household, "who being all of his Majesty's known trust, as well as choice, would be sure to keep the council steady to the true interest of his Majesty and the Crown." [65] According to this plan the total number of the council would be thirty.[66]

He says that "one chief regard, necessary to this constitution, was that of the personal riches of this new council: which, in revenues of land or offices, was found to amount to about three hundred thousand pounds a year, whereas those of a House of Commons are seldom found to have exceeded four hundred thousand pounds. And authority is observed much to follow land: and at the worst, such a council might, out of their own stock, and

[65] Temple, *Memoirs*, pp. 507, 508.

[66] "The other half, being fifteen" . . . *ibid.*, p. 508.

upon a pinch, furnish the King so far as to relieve some great necessity of the Crown." [67]

Temple says that this whole matter was consulted and deduced upon paper only between the king and himself, discussion and consideration lasting nearly a month. He then suggested that it be imparted to a few of the king's confidants, whereupon Charles bade him speak about it to the Lord Chancellor Finch, to Sunderland, and to Essex, they to keep it secret.[68] "When I acquainted them with it," he says, "they all received it with equal amazement and pleasure. My Lord Chancellor said, it looked like a thing from heaven, fallen into his Majesty's breast: Lord Essex, that it would leave the Parliament and the nation in the same dispositions to the King which he found at his coming in: and Lord Sunderland approved it as much as any." [69] At a secret meeting of the king, Temple, Finch, Sunderland, and Essex, Charles suddenly, to the great surprise of Temple, suggested that Shaftesbury be added as president of the council. Temple strongly objected; the others supported the king. Temple said it would ruin his plan, and asked them to remember that he had no part in this.[70]

He goes on to say that Monmouth's vanity and garrulity first made the scheme generally known; that when it was announced it was received with general applause in the country and with bonfires in the city; it was liked in Ireland; the actions of the East India Company rose; the states appointed one of their best men as minister to England; France alone was not satisfied with it. He adds, however, that the commons received it coldly, as, perhaps, merely a new court juggle.[71]

[67] *Ibid.*, pp. 508, 509.
[68] *Ibid.*, p. 509.
[69] *Ibid.*
[70] *Ibid.*, p. 510.
[71] *Ibid.*, p. 511.

Temple is an excellent authority and here his evidence might seem to be the best. Afterwards a scheme of reform in 1679 was very generally credited to him, but for the most part contemporaries did not do this. Certain of them did, indeed, ascribe something of a plan to Temple. Sir Robert Southwell, clerk of the privy council, wrote to the duke of Ormonde the day after the change was made: "My Lord Sunderland seems to be in great trust, and Sir William Temple close in with him. The declaration, I am told, was of his drawing." [72] Another contemporary, writing about four years later, declared that the project was by some ascribed to Temple by others to the lord chancellor, Finch.[73] The earl of Ailesbury, a member of the new council appointed, but writing his memoirs more than a half a century afterwards, said: "My good friend Sir William Temple was truly in the interest of the Crown and the lawful succession . . . 'twas he that contrived a means to stop a breach of an old house ready to fall, and that was, by advising the king to dissolve his privy council . . . and to bring in a certain number of both houses, with a very few of the old ones." [74] At a later time the earl of Dartmouth noted in his copy of Burnet: "This sudden short-lived turn always went by the name of sir William Temple's scheme." [75] Later still, Speaker Onslow made annotation in his copy of the same

[72] *Ormonde MSS.*, new series, iv. 505.

[73] "His Majestie discharged and dissolued his whole Priue Councill, and the next day made a new choice; he left out manie that had serued him faithfully, and tooke in some that had behaued themselues frowardly in the House of Commons. So that the whole thinge was really a proiect that some bodie putt into his head, tearming it a meeting with the affections and desires of his people. Some layd the proiection on Sir William Temple, some on the Lord Chancellor Finch." *The Autobiography of Sir John Bramston* (Camden Society, xxxii), p. 31.

[74] *Memoirs of Thomas, Earl of Ailesbury* (Roxburghe Club, 1895), i. 34.

[75] Quoted in Burnet, *History of His Own Time* (Oxford, 1833), ii. 203, note.

work: "See sir W. Temple's Memoirs, part 3. This change was his work, except the bringing in of the lord Shaftsbury. That part of his Memoirs is the most excellent picture of courts and courtiers, and of faction and its leaders." [76] Burnet himself, in his account of the matter, does not mention Temple.

For the most part however, such credit was not assigned to Temple by those well-informed at the time. Barillon, in the numerous despatches which he was sending to the French court, says nothing about the scheme being Temple's, though with Temple, it should be remembered, he was probably not in close association, considering him in the Dutch interest. Writing on the day of the assembling of the new council, he merely ascribed the change to Holles and the Presbyterians.[77] In the despatch which he sent shortly after the change was announced, he said that he had learned of negotiations between Charles and the principal leaders of the opposition in parliament that tended towards an entire change in the council.[78] Van Beunigen, writing to the Dutch government a few days later, ascribed the plan to Holles and the carrying it through especially to Shaftesbury, Monmouth, and the duchess of Portsmouth.[79]

[76] Quoted *ibid.*

[77] "J'ay esté adverty par Milord Hollis de ce qui a esté traité avec luy. Il a eu beaucoup de part a tout et c'est principalement avec les presbyteriens (dont il est le chef) que la cour a pris des mesures." Barillon to the king of France, 1 May 1679 (N. S.): Transcripts from Paris (Baschet), xl.

[78] "Je suis informé qu'il y a une negociation secrette depuis quelques jours entre les principaux chefs des caballes du Parlement et le Roy d'Angleterre; ce qui se traite iroit a changer entierement le conseil privé et la direction des finances et a mettre dans les premieres charges et dans l'administration des affaires les gens qui ont esté jusques a present les plus opposés a la cour." Barillon to the king of France, 27 April 1679 (N. S.): *ibid.*

[79] "Deze notabele veranderinghe in het maniement van de zacchen van Staet werdt geseigt te weezen, voor zooweel de forme aengaet een con-

Algernon Sydney, writing on the day when the new council assembled, says: "A friend of yours and mine is, as far as I understand, the author of all this." In another letter three weeks later he explains, apparently, that it was Halifax to whom he was referring.[80] The duke of York in Brussels understood that the change had been resolved on by the king, the duchess of Portsmouth, Monmouth, Sunderland, and Shaftesbury.[81] According to Lord Keeper Guilford, writing somewhat later, "a chang was made as at the Nomination of a faction."[82] Sir John Reresby, also writing his account later on, believed that Monmouth had the leading part in bringing about the change.[83] The writer of a political pamphlet about four score years afterward, giving a fairly full and good ac-

cept van mylord Holles, ende dat het by dese gelegendheid meest levendigh is gemaecht door den grave van Shaftsburry, ende dat myn heer den hertog van Monmouth, ende ooch mevrouwe de hertoginne van Portsmouth (zoo veele seggen zeccherlyck te weeten) gecontribueert hebben omme det jmaechelych te macchen." Van Beunigen to the greffier of the states general, Westminster, 5 May 1679 (N. S.): Add. MS. 17677 SSS, fo. 247.

[80] "If he and two more can well agree amongst themselves, I believe they will have the management of almost all businesses, and may bring much honour to themselves, and good to our nation." Letter to Henry Savile, 21 April/1 May 1679: *Letters*, pp. 34, 35. "The three that I meant in my Letter, that you would have me explain, were the Earls of Sunderland, Essex, and Halifax, and I am still of the same mind, so far as the power of the Court goes." Letter to Savile, 12 May 1679: *ibid.*, p. 61.

[81] "I have been informed that all this great alteration was resolved on at Lord Sunderland's, none attending his Majesty there but Duke of Monmouth and Lord Shafsbury. The Dutchesse is sayd to brage she helped to perswade his Majesty to do it." The duke of York to the prince of Orange, 8 May 1679 (N. S.): *Foljambe MSS., H. M. C.*, 15th report, v. 129.

[82] Add. MS. 32523, fo. 26.

[83] "The Duke of Monmouth was believed to be at the bottom of these councils, and it was certainly here that he began to set up for himself." *The Memoirs of Sir John Reresby* (London, 1875), p. 167.

count of the reform of the council, said nothing at all about Temple.[84]

In fine, the testimony of Temple is corroborated by that of no contemporary except Sir Robert Southwell, whose corroboration is, indeed, weighty enough, though he may have got his information from Temple. On the other hand, the two ambassadors who for particular reasons followed with closest attention everything that transpired at the court then, who had such admirable facilities for obtaining information that the scholar now seeks data otherwise unobtainable in the collections of their despatches, do not speak of Sir William Temple and specifically mention others as responsible for a change that they fully described. In addition, certain others writing at the time, refer the work entirely to the efforts of various courtiers and politicians.

Temple's testimony is explicit; his honesty and good faith are not to be impugned. It is very possible, however, that he overestimated the part that he played, not knowing all of what was going on, and that he may have misunderstood much of the meaning of the change. Though able and resolute enough, he was very simple and honest.[85]

[84] *The Fatal Consequences Which May Arise from the Want of System,* etc., (London(?), 1756), pp. 43-50.

[85] He speaks plaintively of having "to engage men that were more dexterous than I in such pursuits" in order to collect part of his expenses incurred in negotiating the Treaty of Nymwegen. Some of what he claimed he never obtained: a "mark upon me how unfit I am for a Court." *Memoirs,* p. 487. Onslow says: "Temple was too honest for those times. He was made only for such a prince as king William: but he would take no public employment even under him": quoted in Burnet, ii. 203, note. "A very superficial critic in history may see from both parts of Sir William Temple's memoirs, that he was not let into many of the secrets of his master . . . Charles II. was the deepest dissembler that ever sat on the English throne . . . The Dutchess of Portsmouth was the only person in his kingdom in whom he confided, and even her he sometimes duped, in order to dupe others." Sir John Dalrymple, *Memoirs of Great Britain and Ireland,* etc. (Edinburgh, 1771), i. 38, note.

From other sources it is known that during this very month when the change was planned and carried through Temple was gravely preoccupied, perhaps almost to the exclusion of business. At the end of March a correspondent writing from the Hague knew that his daughter had just died of the smallpox.[86] A month later Sir William wrote from his country seat at Shene "For God sake lay none of my faults or neglects to my charge, that I have been guilty of to yor Lsp since my coming over. I know there have come severall of yor letters that I never answerd . . . The truth is my heart is so broken with a blow I receaved in the most sensible parte of it, that I have done nothing since as I should doe, and I fear never shall againe."[87] Accordingly, it may be Temple flattered himself that his part was more important than actually it was, he being in ignorance of secret negotiations between the king's friends and leaders of the opposition, especially while distracted by domestic sorrow.

Temple seemed to regard the scheme as political rather than constitutional, yet most of the information of the time mentions him in this connection less than others. He declares that he conceived his plan on observing that with the council Charles had it was impossible to oppose parliament's outrageous behavior; but Charles and others must have known all this before Temple told them. Evidently the king and some of his particular councillors at the moment went further than Temple in seeking the support of opposition leaders by giving them places in the council, for this purpose carrying on negotiations without Temple's knowledge. After the Long Parliament assembled Charles I had sought such support. Temple seems to have believed that a new council would make matters better, but the result was merely to bring

[86] S. P. Foreign, Holland, ccxv, 10 April 1679 (N. S.).
[87] Sir William Temple to ?, 2 May 1679: *ibid.*

into the council some of the king's opponents, two thirds of the new council being composed of members who had been in the old one. Temple stressed the idea of having in the privy council men of great property, so that they might in need give financial assistance to the king; but always there had been in the council wealthy members. Such members had never been able to give much help in the days when James I and Charles I needed it so badly: and this part of the plan attracted almost no attention in 1679, except that the French ambassador called the reformed council an assembly of estates. Temple says nothing about the cabinet or much condemned foreign committee of the privy council, though it is known certainly that such a body had done much to arouse antagonism in the house of commons. Temple does not mention the limitation of the number of the privy council as an important part of the scheme, and only incidentally makes reference to it. This, however, along with such ideas as having different services represented by pairs of councillors, and including men of wealth, is exactly what the critic, resorting to conjecture, would be apt to assign to Temple, since everything known would lead to the conclusion that his part in the alteration was drawing up some formal scheme in set terms rather than carrying on the political negotiations that underlay the change made.

The day before the announcement to the privy council, Sir Robert Southwell knew that the number of the council was to be reduced so that a cabinet council would not be needed again.[88] When Barillon wrote two days later he told Louis XIV that the new council was to take cognizance of all affairs, interior as well as foreign, that Charles

[88] "That the Council be reduced to such a number and so composed as not to need any Cabinet of such model as hath been before." "Memorandum on Public Affairs, By Sir Robert Southwell": *Ormonde MSS.*, new series, iv, p. xx.

would have no other council, that what had been known as the cabinet council was to be entirely abolished.[89]

Often in the past observers had thought the council too large. Now in his declaration Charles II asserted that the members were too numerous, so that he had been forced to use a smaller body, such as the committee of foreign affairs. In future the council was to be limited to thirty members, besides the lord president, the princes of the blood, and one of the secretaries of state from Scotland. Such limitation of the council had been thought of before. About 1470 Sir John Fortescue suggested a similar plan. Before the civil wars some had thought the council too large, and after the Restoration Clarendon had protested against continued increase. Charles now limited the number to about what experience had shown to be the maximum number that ever attended. This limitation was maintained during the rest of his reign.

It is of interest to note that there was also some idea of limiting the number of the privy council of Ireland. A little after the change in England, Sir Robert Southwell wrote to the duke of Ormonde, lord lieutenant of Ireland: "whether this great example of the dissolution and revival of the Council will be matter of precedent in Ireland I cannot tell." [90] A few days later Coventry, one of the secretaries of state, wrote to Ormonde that Charles proposed to reduce the number of the Irish council, and was considering twenty as the number.[91] Shortly after

[89] "Le conseil doit prendre connoissance de touttes les affaires du dedans et de celles du dehors, il ne s'en tiendra point d'autre, et ce qui s'appelloit le conseil du cabinet sera entierement aboly." Barillon to the king of France, 1 May 1679 (N. S.): Transcripts from Paris (Baschet), xl; Christie, *Life of Shaftesbury*, ii, appendix, p. cix.

[90] Letter to the duke of Ormonde, 22 April 1679: *Ormonde MSS.*, new series, iv. 504.

[91] "I suppose your Grace did, upon the news of the reduction made in the Council of England, foresee that something of that nature would follow in Ireland. His Majesty hath commanded me to signify to your

Sir William Temple himself wrote to Ormonde: "I remember it was once mentioned to make a reduction of the great numbers of Councillors there, or some new constitution like what has been done here; and this being then fresh, the King and several of his Privy Council seemed inclined to it." Afterwards parliament engrossed all attention. Temple himself had not been convinced that lessening the number of the Irish council was important, since in any event weighty matters were dealt with in the English privy council.[92] A month after the new council was established in England Ormonde wrote to Temple that command had come for him to send over a list of the members of the Irish council; and that he had done so at once. He had long thought entrance into the body too easy, lowering authority and esteem. Yet numerous as the council was, there were times when a number sufficient for business could not be assembled.[93] It happened that on the day of this writing in Dublin, Charles and a council of twenty-four meeting at Whitehall ordered Coventry to inform the lord lieutenant "that his Majty intends to reduce the Number of the Privy Councill in that Kingdom to Thirty, and to know what great officers his

Grace that he will proceed in the same method there; and therefore doth expect from your Grace a list of the present Councillors, and likewise what those officers are that you judge fitting should be Privy Councillors by their places. His Majesty proposed the reducing the number of Privy Councillors in Ireland to twenty. I humbly offered my opinion that would be too little in respect several occasions did draw some members of them into this town always, which would leave few to supply the several Committees of Council the affairs of that kingdom require. However, I suppose there will be no resolution taken till His Majesty hath heard from your Grace." Coventry to Ormonde, Whitehall, 26 April 1679: *ibid.*, v. 65.

[92] Sir William Temple to the duke of Ormonde, London 10 May 1679: *ibid.*, pp. 91, 92.

[93] The duke of Ormonde to Sir William Temple, Dublin, 21 May 1679: *ibid.*, pp. 108, 109.

Grace thinks fit to be comprehended in that Number." [94] Apparently nothing was done, but it would seem that the king considered this part of the reform of 1679 important.

At the very end of the reign of Charles II Ormonde wrote: "In the mean time I humbly offer, as my opinion, that there are too many privy-councillors, and that all of them are not of quality equal to the dignity, and others not very useful." At that time was being discussed a plan to dismiss those who had borne arms against Charles or his father.[95] James II, shortly after his accession, directed the lords justices of Ireland to dissolve the Irish privy council, and he appointed a new council of twenty-nine members there. "He has not taken that resolution upon any dissatisfaction with any of them, but because he thought it requisite for his Seruice to lessen the number of the Councill." [96]

[94] P. C. R., lxviii, 21 May 1679.

[95] Letter to the earl of Rochester, 3 January 1684-5: *The Correspondence of Henry Hyde*, etc. (London, 1828), i. 104.

[96] The earl of Sunderland to the lords justices of Ireland: S. P. D., Ireland, ccxl, 28 February 1684-5.

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A CHARGE
IS MADE FOR
REMOVED OR
DAMAGED
LABELS.